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भारत का राजपत्र

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सं. 24]

नई दिल्ली, शनिवार, जून 14, 1997/ज्येष्ठ 24, 1919

No. 24]

NEW DELHI, SATURDAY, JUNE 14, 1997/JYAISTHA 24, 1919

इस भाग में विभिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—संख्या 3—उप-संख्या (ii)
PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्ता मंत्रालय को छोड़कर) द्वारा जारी किए गए सामिक्षिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, सौक शिकायत सथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 28 मई, 1997

का.आ. 1518.—दण्ड प्रक्रिया संहिता, 1973 (अधिनियम
नम्बर 2, 1974) की उपधारा (8) के द्वारा प्रदत्त शक्तियों
का प्रयोग करने हुए, केन्द्रीय सरकार, एवं द्वारा श्री के.एन.
शर्मा अधिवक्ता को दिल्ली विधेय पुलिस स्थापना नियमित
गाम्भीर्या संख्या 2/92 और 10/65 सी.वी.आई./सी.आई.
यू.-5, नई दिल्ली में अभियोजन के संचालन एवं अन्य
सम्बन्धित कार्यकारियों के हेतु अधियोजक नियमित करती है।

[सं. 225/20/97-एवी०डी II]

हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS

(Department of Personnel & Training)

New Delhi, the 28th May, 1997

S.O. 1518.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri K. N. Sharma, Advocate as Special Public Prosecutor for the purpose of conducting the prosecution and also any other proceedings arising out of the Delhi Special Police Establishment regular case Nos. RC-10/65-ACU(V) and RC-2(A)/92-ACU(V)CBI New Delhi.

[No. 225/20/97-AVD-II]
HARI SINGH, Under Secy.

मई दिल्ली, 30 मई, 1997

का.प्रा. 1419.—बण्ड प्रक्रिया संहिता, 1973 (अधिनियम 2/1974) की धारा 24 उपधारा (8) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार इलाहाबाद उच्च न्यायालय के अधिवक्ता श्री पी.एस. अधिकारी को श्री आई.डी. मिश्र अधिवक्ता, इलाहाबाद की सहायता से दिल्ली विशेष पुलिस स्थापना के नियमित मामला सं. 5 (ए.)/84-ए.सी.यू.-5-श्री नर बहादुर भण्डारी के विशेष तथा 8(ए.)/84 ए.सी.यू.-5 श्री नर बहादुर भण्डारी तथा अन्य के विशेष न्यायालय विशेष न्यायाधीश गंगटोक तथा सिक्किम राज्य के अन्य न्यायालयों में अभियोजन एवं तत्सम्बन्धित अन्य कार्यवाहियों के संचालन हेतु नियुक्त करते हैं।

[संख्या 225/7/97-ए.बी.डी.-II]
हरि सिंह, अवार सचिव

New Delhi, the 30th May, 1997

S.O. 1519.—In exercise of the powers conferred by Sub section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Govt. hereby appoints Sh. P. S. Adhikari, Advocate, Allahabad High court assisted by Sh. I. D. Mishra, Advocate, Allahabad as Special Public Prosecutor for conducting the prosecution and also any other proceeding arising out of the Delhi Special Police Establishment Regular Case No. 5 (A)/84-ACU(V) against Sh. Nar Bahadur Bhandari and Regular Case the RC 8/84-ACU(V), CBI New Delhi against Sh. Nar Bahadur Bhandari and others in court of Special Judge, Gangtok as well as in other courts in the State of Sikkim.

[No. 225/7/97-AVD-II]
HARI SINGH, Under Secy.

मई दिल्ली, 30 मई, 1997

का.प्रा. 1520.—बण्ड प्रक्रिया संहिता, 1973 (अधिनियम नम्बर 2, 1974) की धारा 24 उपधारा (8) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतत्त्वारा श्री सी. राघवन अधिवक्ता एरनाकुलम उच्च न्यायालय को दिल्ली विशेष पुलिस स्थापना के नियमित मामला संख्या 2/91 सी.बी.आई. सीआईपु.(5) नईदिल्ली अरनाकुलम विशेष न्यायाधीश की न्यायालय में और श्री.एस. नम्बर 28/96 (बीवानी बाद) न्यायालय सब जज थोड़पुक्कम जिला इडकी में अभियोजन व वाद संचालन एवं अन्य सम्बन्धित कार्यवाहियों के हेतु विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/33/97-ए.बी.डी-II])
हरि सिंह, अवार सचिव

New Delhi, the 30th May, 1997

S.O. 1520.—In exercise of the powers conferred by Sub section 8 of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Govt. hereby appoints Sh. C. Raghavan, Advocate, Kerala High Court, as Spl. Public Prosecutor for the purpose of conducting the prosecution and also any other proceedings arising out of Delhi Special Police Establishment Regular Case No. RC 2(A)/91-ACU(V)/CBI New Delhi in the Court of Special Judge, Ernakulam and OS No. 28/96 (Civil Case) in the court of Subordinate Judge at the Thodupuzham Idukki District and other places.

[No. 225/33/97-AVD-II]
HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 20 मई, 1997

का.प्रा. 1521.—चूंकि उपमहानिवेशक (समन्वय) स्वापक नियंत्रण व्यूरो जिनको स्वापक औषधों तथा मनःप्रभावी पदार्थ अधिनियम, 1988 के गैर कानूनी अवैध व्यापार कीरोक्षाम के लिए खंड 3 के उपखंड (1) के अधीन विशेष रूप से शक्ति प्राप्त है, ने उक्त उप खंड के अन्तर्गत दिनांक 13-12-96 को का.सं. 801/32/96 पिट एन डी पी एस के अधीन आदेश जारी करके निर्देश दिया था श्री वाहिक पुन श्री हनीफ खान जो संजय नगर, जाओरो, जिला रत्नाम, म.प्र. के निवासी है को स्वापक औषधों के क्रय स्वामित्व, फिल्में, पारगमन तथा विक्रय से रोकने फलस्वरूप नजरबंद तथा केन्द्रीय कारागार, ईश्वर मध्य प्रदेश में हिरासत में रखा जाए।

(2) चूंकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त व्यक्ति फरार है या अपने आपको छिपा रहा है जिसके कारण आदेश का पालन नहीं हो सका है।

(3) अतः, यदि उक्त अधिनियम के खंड 8 के उपखंड 1 उपवाक्य (ख) द्वारा निश्चित की गई शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार यह निर्देश देती है कि उक्त व्यक्ति सरकारी गजट में इस आदेश के प्रकाशन के 10 दिनों के भीतर अधीक्षक (एस) केन्द्रीय स्वापक व्यूरो निवारण तथा आमूचना कक्ष, रत्नाम (म.प्र.) के समक्ष प्रस्तुत हो।

[फा.सं. 801/32/96-पिट एन डी पी एस]
बी. के. अरोड़ा, अवार सचिव

MINISTRY OF FINANCE
(Department of Revenue)

ORDER

New Delhi, the 20th May, 1997

S.O. 1521.—Whereas the Deputy Director General (Coordination) Narcotics Control Bureau specially empowered under sub-section (1) of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 issued order F. No. 801/32/96-PITNDPS dated 13th December, 1996 under the said sub-section directing that Shri Waheed S/o Shri Haneef Khan R/o Sanjay Nagar, Jaora, District Ratlam, Madhya Pradesh be detained and kept in custody in the Central Jail, Indore (Madhya Pradesh) with a view to preventing him from engaging in abetting in the purchase, possession, concealment, transportation and sale of narcotic drugs.

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of powers conferred by clause (b) of sub-section (1) of Section 8 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Superintendent (Ex.) Central Bureau of Narcotics Preventive and Intelligence Cell, Ratlam (Madhya Pradesh) within 10 days of the publication of this order in the official Gazette.

[F. No. 801/32/96-PITNDPS]
B. K. ARORA, Under Secy.

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

कानपुर, 23 मई, 1997

सीमा शुल्क

का.आ. 1522.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खंड (बी) के अन्तर्गत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की दिनांक 1/07/1994 की अधिसूचना संख्या 33/94 सी.ए. (एन.टी.) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए मैं, एम.सी. कौल, आयुक्त, केन्द्रीय उत्पाद एवं सीमा शुल्क, कानपुर एटड उत्तर प्रदेश के हरदोई स्थित परगना मल्लावा, तहसील बिलगाम, जिला हरदोई, उत्तर प्रदेश को, सीमा शुल्क अधिनियम 1962 की धारा 9 के अन्तर्गत भंडारण केन्द्र के रूप में घोषित करता हूँ।

[अधिसूचना सं. 04/97-सी.शु. (एन.टी.)/प्रांक सं.
VIII(40)16-सी.शु. (ई.ओ.यू.)]

एम. सी. कौल, आयुक्त

OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL EXCISE

Kanpur, the 23rd May, 1997

CUSTOMS

S.O. 1522.—In exercise of the power delegated to the undersigned vide Notification No. 33/94-Cus. (NT) dated the 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi under clause (b) of section 152 of the Customs Act, 1962, I, M. C. Kaul, Commissioner of Customs & Central Excise, Kanpur hereby declare Pargana Mallawan under Tehsil Bilgram, District Hardoi in the State of Uttar Pradesh to be a warehousing station under section 9 of the Customs Act, 1962 for the purpose of setting up of 100 per cent E.O.U.

[Notification No. 04/97-Customs (NT)]

Issued vide F. No. VIII(40)16-Cus/WH/Pill/97]

M. C. KAUL, Commissioner

मुख्य आयकर आयुक्त-II का कार्यालय

कलकत्ता, 24 अप्रैल, 1997

(खण्ड—I)

का.आ. 1523.—बोर्ड के दिनांक 23-10-87 के आदेश संख्या 1775 तथा आगे विनांक 09-10-92 के यथा संशोधित अनुदेश द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, मुख्य आयकर आयुक्त-II, कलकत्ता दिनांक 01-05-1997 से आयकर आयुक्त पश्चिम बंगाल-4 के क्षेत्राधिकार में आयकर उपायुक्त (अपील) रेंज-7, कलकत्ता प्रभार को समाप्त करता हूँ।

(खण्ड-II)

बोर्ड के दिनांक 23-10-87 के अनुदेश संख्या 1775 तथा विनांक 09-10-92 के यथा संशोधित अनुदेश द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं मुख्य आयकर आयुक्त-II, कलकत्ता दिनांक 01-05-97 से आयकर आयुक्त, प. बं.-10, कलकत्ता के क्षेत्राधिकार में आयकर उपायुक्त, विशेष रेंज-24, कलकत्ता के एक नये पद का सूचन करता हूँ।

[सं. मु.आ.-II/स्था./9/96-97/115]
भ्रमिकाम चटर्जी, मुख्य आयकर आयुक्त-II

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX-II

Calcutta, the 24th April, 1997

(Part-I)

S.O. 1523.—In exercise of the powers conferred by Board vide its instruction No. 1775 dated 23rd October, 1987 and further instruction as amended dated 9th October, 1992, I, the Chief

Commissioner of Income-tax-II, Calcutta abolish the charge of the Deputy Commissioner of Income Tax (Appeals) Range-VII, Calcutta within the jurisdiction of the Commissioner of Income Tax, WB-IV, Calcutta with effect from 1st May, 1997.

(Part-II)

In exercise of the powers conferred by Board vide its instruction No. 1775 dated 23rd October, 1987 and further instruction as amended dated 9th October, 1992, I, the Chief Commissioner of Income Tax-II, Calcutta create a new post of Deputy Commissioner of Income Tax, Special Range-24, Calcutta within the jurisdiction of Commissioner of Income Tax, WB-X, Calcutta with effect from 1st May, 1997.

[No. CC-II] Estab.[9]96-97[115]
AMITAVA CHATTERJEE, Chief Commissioner
of Income-tax-II

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का.आ. 1524—आयकर अधिनियम, 1961 (1961 का 43) की धारा 120 की उपधारा (1) और उपधारा (2) द्वारा प्रदत्त शक्तियों सथा इस दिशा में मुख्य सक्षम बनाने वाली सभी शक्तियों का प्रयोग करते हुए मैं, मुख्य आयकर आयुक्त-II, कलकत्ता आदेश देता हूँ कि आयकर उपायुक्त (अपील) रेंज-7 के साथ अब तक निहित अपील मामलों के क्षेत्राधिकार आयकर उपायुक्त (अपील) रेंज-4, कलकत्ता के क्षेत्राधिकार के साथ मिला दिया जायेगा। आयकर उपायुक्त

(आधिकारीकार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 28 मई, 1997

का.आ. 1525—राष्ट्रीयकृत बैंक (प्रबंध और प्रक्रीण उपवंश) स्कीम, 1970 के खंड 3 के उपखंड (1) और खंड 8 उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और प्रत्यरोग) अधिनियम 1970 की धारा 9 की उपधारा 3 के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा श्री ए. जी. जोशी, वर्तमान महाप्रबंधा, बैंक आफ महाराष्ट्र को उसके कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए इंडियन बैंक के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[एफ. स० 9/18/96-बी०आ० 1]

मुख्य श्रीवास्तव, उप सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 28th May, 1997

S.O. 1525.—In exercise of the powers conferred by clause (a) of sub-section 3 of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalised

(अपील) रेंज-4, कलकत्ता आयकर उपायुक्त (अपील) रेंज-7, जो पहले विभाग 01-05-97 से शामिल कर दिया जाया है, के क्षेत्राधिकार में नियन्त्रित सभी अपीलों तथा अर्जित में आने वाले सभी अपीलों के बारे में अपने कार्यों का निपादन करेंगे।

[सं. मू.आ./क्षेत्रा.ii/प्रा.आ. (अ.)-II] 97-98/123

ए. चट्टर्जी, मुख्य आयकर आयुक्त-1

Calcutta, the 24th April, 1997

S.O. 1524.—In exercise of the powers conferred by sub-section (1) and sub-section (2) of Section 120 of the Income Tax Act, 1961 (43 of 1961) and of all other powers enabling me in this order I, the Chief Commissioner of Income Tax-II, Calcutta order that the jurisdiction of Appeal cases so far vested with the Deputy Commissioner of Income Tax (Appeals) Range-7 shall merge with the jurisdiction of the Deputy Commissioner of Income Tax (Appeals) Range-4, Calcutta. The Deputy Commissioner of Income Tax (Appeals) Range-4, Calcutta will perform his functions in respect of all the Appeals that are pending with and may come in future within the jurisdiction of the Deputy Commissioner of Income Tax (Appeals) Range-7, post of which is abolished with effect from 1st May, 1997.

[No. CC-II] Jurisdiction[CIT(A)-III] 97-98/123]

A. CHATTERJEE, Chief Commissioner
of Income Tax-II

(आधिकारीकार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 28 मई, 1997

Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri A.G. Joshi, presently General Manager, Bank of Maharashtra as a whole time Director (designated as the Executive Director) of Indian Bank for a period of five years from the date of his taking charge.

[F. No. 9/18/96-B.O.I]
SUDHIR SHRIVASTAVA, Dy. Secy.

(बीमा विभाग)

नई दिल्ली, 29 मई, 1997

का.आ. 1526.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा यह निर्देश देती है कि श्री बी० कृष्णमूर्ति, प्रबन्ध निदेशक, भारतीय जीवन बीमा निगम प्रबन्ध निदेशक के रूप में अपने कर्तव्यों के अतिरिक्त 31 मई, 1997 (पूर्वीनुसारे अगस्त आदेश होने तक श्री एन. एन. गोवर्धन के रथान पर इस निगम के अध्यक्ष का वर्तमान पद भार संभालेंगे और ये उक्त निगम के अध्यक्ष की सभी शक्तियों का प्रयोग तथा उनके कार्य वर्तमान हैं।

[फा. सं. 14(2)/96-बीमा-5]

सी.एस. राव, संयुक्त सचिव

(Insurance Division)

New Delhi, the 29th May, 1997

S.O. 1526.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956) the Central Government hereby directs that Shri G. Krishnamurthy, Managing Director of the Life Insurance Corporation of India will hold current charge of the Chairman of that Corporation vice Shri N. M. Govardhan with effect from 31st May, 1997 (A.N.) till further orders, in addition to his duties as Managing Director, and he shall exercise all the powers and the functions of the Chairman of the said Corporation.

[F. No. 14(2)/96-Ins. V]

C. S. RAO, Jt. Secy.

नागरिक पूर्ति, उपभोक्ता मामले और

सार्वजनिक वितरण मंत्रालय

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1527.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, नागरिक पूर्ति, उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय के अधीन राष्ट्रीय उपभोक्ता सहकारी संघ, नई दिल्ली के पटना, शिमला एवं नोएडा स्थित निम्नलिखित शाखा/डिपो कार्यालयों, जिनमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

1. राष्ट्रीय उपभोक्ता सहकारी संघ

शाखा/डिपो कार्यालय

ए-1 पीपुल कॉ-ऑपरेटिंग सोसायटी
कंकड़वांग, राजेश्वरी भवन,
द्वितीय तल, पटना-800020

2. राष्ट्रीय उपभोक्ता सहकारी संघ
शाखा/डिपो कार्यालय हाईवे होम
संजोली, शिमला-171006 (ह.प्र.)
3. राष्ट्रीय उपभोक्ता सहकारी संघ
शाखा/डिपो कार्यालय
दो-4, मैषटड़ा-1,
नोएडा-201301, गाजियाबाद (उ.प्र.)

[सं. ई-11012/6/96-हिन्दी]
राम तिलक पांडेय, निदेशक

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

New Delhi, the 29th April, 1997

S.O. 1527.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (use for official purposes of the union) Rules, 1976, the Central Government hereby notifies the following three Branch/Depot Offices of National Co-operative Consumers Federation of India, New Delhi under the Ministry of Civil Supplies, Consumer Affairs and Public Distribution, where more than 80 per cent of the staff have acquired working knowledge of Hindi :

1. National Co-operative Consumer's Federation of India,
Branch/Depot Office,
A-1/People Co-op Society,
Kankarbagh, Rajeswari Bhavan,
2nd Floor, Patna-800020.
2. National Co-operative Consumer's Federation of India,
Branch/Depot Office,
Highway Home,
Sanjouli,
Shimla-171006 (H.P.).
3. National Co-operative Consumer's Federation of India,
Branch/Depot Office,
B-4,
Sector-4,
Noida-201301,
Ghaziabad (U.P.)

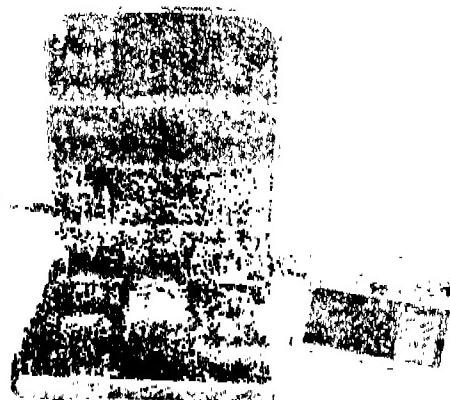
[No. E-11012/6/96-Hindi]
R. T. PANDEY, Director

नई दिल्ली, 29 मई, 1997

का०ग्रा० 1528.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट (नीचे आकृति देखिए) पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उल्लंघनों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मध्यम यथार्थता वर्ग III की डी सी 81 सिरीज टाइप के “ईस्से छिपी” ब्रांड नाम बाले (स्वतः गुचक और स्वचालित प्लेटफार्म तोतन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स ईस्सई टेराका प्राइवेट लिमिटेड, 27, 9वां फ्लॉर, विनपन गार्डेन, बंगलौर 560027 कर्नाटक राज्य द्वारा किया गया है और जिस अनुमोदन चिन्ह प्राईंगनॉडी०/09/96/11 समनुदिप्त किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक मध्यम यथार्थता वर्ग III तोतन उपकरण है जिसकी अधिकतम क्षमता 150 किलोग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अन्तर (ई) 20 ग्राम है। इसमें एफ टेयर युक्ति है जिसका व्यक्तनात्मक प्रतिधारण प्रभाव 100 प्रतिशत है। भारग्राही आयातकार सेक्षन का है जिसका आकार 550×650 मिलीमीटर है। प्रकाश उत्सर्जन डायोड संप्रदर्शी तोतन परिणाम उत्पर्दित करता है। यह उत्सर्जन 230 वोल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचलित होता है।



आगे, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अन्तर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 60 किलोग्राम/10 ग्राम, 300 किलोग्राम/50 ग्राम, 600 किलोग्राम/100 ग्राम, 1500 किलोग्राम/200 ग्राम और 3000 किलोग्राम/500 ग्राम, की अधिकतम क्षमता बाले समरूप भेक यथार्थता और उसी मिरीज के कार्यकरण बाले तोतन उपकरण भी है।

[का० सं० डब्ल्यू एम 21(29)/95]

राजीव श्रीवास्तव, संयुक्त सचिव

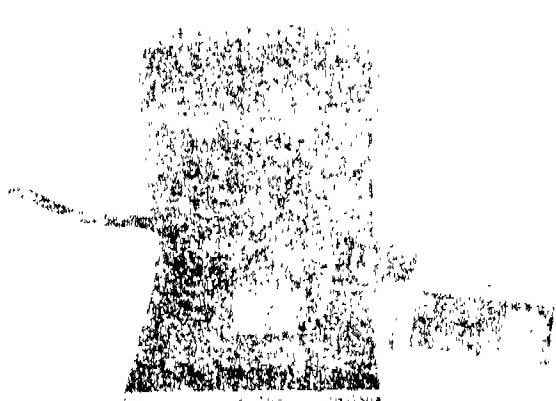
New Delhi, the 29th May, 1997

result. The instrument operates on 230 volts, 50 Hertz alternate current power supply.

S.O. 1528.—Whereas the Central Government after considering the report submitted to it by the prescribed authority (see figure below), is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic platform weighing instrument of type DC-81 series of class III (Medium) accuracy, with brand name "ESSAE-DIGI" (hereinafter called the model) manufactured by M/s. Essae Teraoka Pvt. Ltd. 27, 9th Cross. Wilson Garden, Bangalore-560027, and which is assigned the approval mark JND/09/96/11;

The model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 150 kg and minimum capacity of 400g. The verification scale interval (e) is 20 gram. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of size 550×650 millimetres. The LED display indicates the weighing



(figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 60kg/10g, 300kg/50g, 600kg/100g, 1500kg/200g, and 3000kg/500g manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

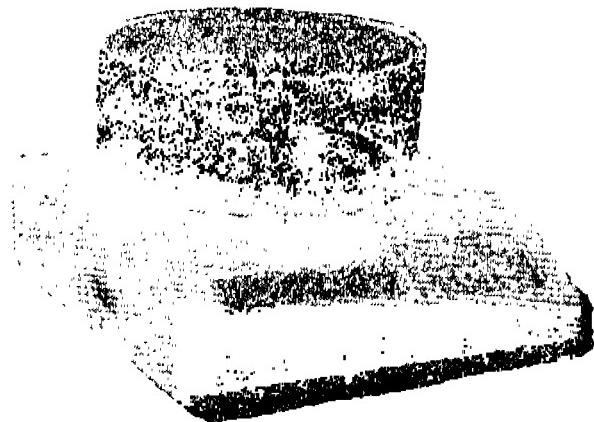
[File No. WM-21(29)/95]
RAJIV SRIVASTAVA, Jt. Secy.

नई दिल्ली, 29 मई, 1997

का०शा० 1529—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत कि गई रिपोर्ट (नीचे आङ्कुरि देखिए) पर विचार करने के पश्चात् समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा।

अतः, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उच्च यथार्थता वर्ग II के स्थी एल-130 सिरीज टाइप के "इस्सेडिगी" शांड नाम वाले स्वतः सुचक गैर-स्वचालित टेक्सल दाप तोलन उपकरण के माडल का (जिसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स इस्से टेरोका

प्राइवेट लिमिटेड, 27, ९वां क्रांति विलयन गार्डन, 1680, बंगलोर-560027, कर्नाटक राज्य हार्दिका किया गया है और जिसे अनुमोदन चिन्ह आईपीनो १०/०९/९६/१२ गमनदिव्य किया गया है, अनुमोदन प्रमाणपत्र प्रदानित करती है।



(आकृति)

माऊल (आकृति ऐच्छिक) एक उच्च यथार्थता (यथार्थता वर्ग II) का तोप्रन उपकरण है जिसकी अधिकतम क्षमता ग्राम और न्यूनतम क्षमता 200 मिलीग्राम है। भव्यापन मापमान अन्तर (ई) 10 मिलीग्राम है। इसमें एक टेयर युक्ति है व्यक्तिनात्मक प्रतिश्वारण प्रभाव 100 प्रतिशत है। भार आही वृत्ताकार नैक्षण का है जिसका व्यास 110 मिली मीट्र प्रकाश उत्सर्जन डायोड संप्रदर्शन तोल परिमाण उपर्यागित करता है। यह उपकरण 230 बोल्ट, 50 हर्टज के प्रवावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।

[फा० स० छृष्ट्यू एम 21(69)/95]

राजीव श्रीवास्तव, संयुक्त सचिव

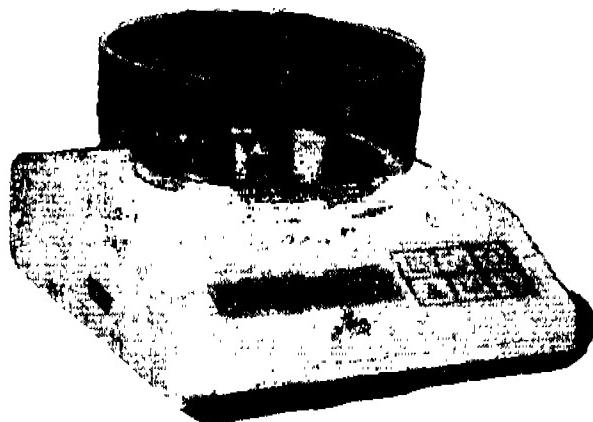
New Delhi, the 29th May, 1997

S.O. 1529.—Whereas the Central Government after considering the report submitted to it by the prescribed authority (see figure below), is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sus-

tained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic table top weighing instrument of type CL-130 series of class II (high) accuracy, with brand name "ESSAE-DIGI" (hereinafter called the model) manufactured by M/s. Essae Teraoka Pvt. Ltd., 27, 9th Cross,

Wilson Garden, Bangalore-560027, and which is assigned the approval mark IND/09/96/12;



(figure)

The model (see Figure) is a high accuracy (accuracy class II) weighing instrument with a maximum capacity of 300g and minimum capacity of 200mg. The verification scale interval (e) is 10 milligram. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of circular section of diameter 110 millimetres. The LED display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz alternate current power supply.

[File No. WM-21(69)95]

RAJIV SRIVASTAVA, Jt. Secy.

खाद्य प्रसंस्करण उद्योग मंत्रालय

आदेश

नई दिल्ली, 30 मई, 1997

का. आ. 1530 केन्द्रीय सरकार आवश्यक वस्तु अधिनियम, 1955 (1955 का 10) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, फल उत्पाद आदेश, 1955
1349 GI/97-2

में और संशोधन करने के लिये निम्नलिखित आदेश करती है, अर्थात् :—

1. (1) इस आदेश का संक्षिप्त नाम फल उत्पादन (संशोधन) आदेश, 1997 है।

(2) यह राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. फल उत्पाद आदेश, 1955 (जिसे इसमें इसके पश्चात् उक्त आदेश कहा गया है) में, "संशिलिष्ट" शब्द के स्थान पर जहाँ-जहाँ वह आता है, क्रमांक "शब्द रहित" रखा जायेगा।

3. उक्त आदेश के खंड 2 में, उपखंड (घ) में, मद संख्या (XV) के स्थान पर निम्नलिखित मद रखी जायेगी, अर्थात् :—

(XV) "ऐसे भी अविनिर्दिष्ट फल और सब्जी उत्पाद जो सूक्ष्म विज्ञान की दृष्टि से सुरक्षित समझे जाते हैं और जिनमें केवल अनुज्ञेय सीमा तक अनुज्ञात संयोजी है।"

4. उक्त आदेश के खंड 3 में, उपखंड (1) में, मद (1) (4) से संबंधित विद्यमान प्रविधियों के पश्चात् निम्नलिखित अंतःस्थापित किया जायेगा, अर्थात् :—

"(5) उपभोक्ता संगठनों का एक प्रतिनिधि।"

5. उक्त आदेश के खंड 4 में, उपखंड (3) के पश्चात् निम्नलिखित उप खंड अंतःस्थापित किया जायेगा, अर्थात् :—

"(3क) कोई विनिमति यथास्थिति तीन, पांच और दस वर्ष के लिये एक मुश्त फीस का संदाय करके अनुश्रृति के नवीकरण के लिये आवेदन कर सकता है।"

6. उक्त आदेश के खंड 8 में उपखंड (1) में, मद (क) के स्थान पर निम्नलिखित मद रखी जायेगी, अर्थात् :—

"(क) प्रत्येक आवाहन पर जिसमें कोई फल उत्पाद पैक किया जाता है एक नेबल होगा जिसमें दूसरी अनुसूची के भाग XX, मद 2 में यथा निम्न बोर्ड होंगे।"

7. उक्त आदेश के खंड II में उपखंड (3) में "इसमें कोई फल रस या फल की लुगदी नहीं है" शब्दों के स्थान पर "इसमें कोई फल नहीं है" शब्द रखे जायेंगे।

8. उक्त आदेश की दूसरी अनुसूची में,—

(I) भाग II में साधारण लक्षण से संबंधित स्तंभ 5 में अंत में निम्नलिखित ओड़ा जायेगा, अर्थात् :—

"ऐसे कोई सीरप/शरवत जिनमें न्यूनतम 10 सुखे मेवे हो फल सीरप कहे जाने के लिये प्रहित होंगे।"

(II) भाग XVII तेल के अचारों के लिये विनिर्देशों से संबंधित भाग XVII के पश्चात्, निम्नलिखित भाग जोड़ा जायेगा, अर्थात् :—

“भाग XVII के अचार से अभिप्रेत है ऐसी निर्मिति जो ढूँढ़, साफ करने या पर्याप्त रूप से पके हुए फल या सब्जी अथवा दोनों के समिश्रण में बनाया गया हो और जो कीट धति या फंफूदी आक्रमण से मुक्त हो तथा नमक, अम्ल, चीनी या इन तीनों के किसी समिश्रण में परिरक्षित हो। अचार में प्पाज, लहमुन, चीनी, गुड़, खाद्य तेल, मसाले, ममाला तिकरीण या हूँडी का तेल, काली मिर्च, लाल मिर्च, मेथी, मरम्भां दाना या मरसों दाना खूर्ण, सब्जी संधटक, हींग, काला चना, नीबू का रम, हरी मिर्च, सिरका या एसिटिक अम्ल, सीटिक अम्ल, मुखे में जिनमें किशमिश और काष्ठ फल भी हैं, अचार में यह सब साधारण हो सकता है। अचार मिलाये गये तांबे, खनिज अम्ल, फिटकरी से मुक्त होगा और उसमें किणवन के कोई चिन्ह दिखाई नहीं देंगे। उत्पाद तत्त्वजट से मुक्त होगा। अचार सुखिक स्वाद और गंध बाले होंगे।”

(III) भाग XX में मद (च) और संबंधित प्रविष्टियों के पश्चात् निम्नलिखित मद अंतःस्थापित की जायेगी, अर्थात् :—

“(छ) फल और सब्जी उत्पाद संपूर्णतया अवृत्तित और तचीली पैदिग सामग्री में पैक किये जायेंगे जो भारतीय मानक द्यूरो द्वारा अधिकथित विनिर्देशों के अनुरूप खाद्य श्रेणी क्वालिटी की होगी।

(IV) भाग XXIV में, मद (ख) और उसमें संबंधित प्रविष्टियों के पश्चात्, निम्नलिखित मद जोड़ा जायेगा, अर्थात् :—

“(ग) फल उत्पादों में कृतिम मधुरकों के रूप में एस्प्रेस डिक्टर 700 पीपीएम के अधीन रहते हुए और एसफ्लूम के अधिकतम 300 पीपीएम के अधीन रहते हुए मिलाया जा सकता है।

(घ) खाद्य अम्ल अर्थात् मालिक अम्ल, सीटिक अम्ल, लैपिटक अम्ल अच्छे विनियोग तथा के अनुसार अम्लीकारकों के रूप में मिलाया जा सकता है।

[फा.सं. 22-3/93-एफ एंड बी पी]
एम.के. जे. नायर, अवर नियमित

टिप्पण :—मूल आदेश भारत के राजपत्र का.नि.आ. सं. 1052 तारीख 3 मई, 1955 द्वारा प्रकाशित किया गया था और उसमें निम्नलिखित द्वारा संशोधन किया गया :—

1. या.का.नि. 2080, दिनांक 14-9-1955
2. या.का.नि. 1259, दिनांक 19-5-1956
3. या.का.नि. 2120, दिनांक 22-9-1956

4. या.का.नि. 1474, दिनांक 30-4-1957
5. या.आ. 2663, दिनांक 17-12-1958
6. या.आ. 2942, दिनांक 6-12-1961
7. या.आ. 1011, दिनांक 31-3-1962
8. या.आ. 166, दिनांक 9-1-1963
9. या.आ. 702, दिनांक 18-3-1962
10. या.आ. 582, दिनांक 5-2-1965
11. या.का.नि. 1890, दिनांक 9-5-1968
12. या.आ. 3427, दिनांक 11-9-1968
13. या.आ. 5593, दिनांक 30-12-1971
14. या.आ. 621, दिनांक 22-2-1972
15. या.आ. 3537, दिनांक 28-10-1972
16. या.आ. 800(ई), दिनांक 31-12-1973
17. या.आ. 3044, दिनांक 20-10-1974
18. या.आ. 741(ई), दिनांक 27-12-1974
19. या.आ. 78(ई), दिनांक 28-1-1980

MINISTRY OF FOOD PROCESSING INDUSTRIES

ORDER

New Delhi, the 30th May, 1997

S.O. 1530.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Fruit Products Order, 1955, namely :—

1. (1) This order may be called the Fruit Products (Amendment) Order, 1997.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Fruit Products Order, 1955 (hereinafter referred to as the said order) for the word “synthetic”, whenever it occurs, the word “non-fruit” shall respectively be substituted.

3. In clause 2 of the said Order, in sub-clause (d), for item number (xv), the following item shall be substituted, namely :—

(xv) “All unspecified fruit and vegetable products which are considered microbiologically safe and contains only permitted additives within permissible limits.”

4. In clause 3 of the said Order, in sub-clause (1), after the existing entries relating to item (i) (4), the following shall be inserted, namely :—

“(5) One representative of the Consumer Organisations.”

5. In clause 4 of the said Order, after sub-clause (3), the following sub-clause shall be inserted, namely :—

“(3A) A manufacturer may apply for renewal of the licence for a period of three, five or ten years, as the case may be, after paying the lump sum fee for the period so applied.”

6. In clause 8 of the said Order, in sub-clause (1), for item (a), the following item shall be substituted, namely :—

“(a) Every container in which any fruit product is packed shall bear a label containing the details as specified in item 2, PART XX of the Second Schedule.”

7. In clause 11 of the said Order, in sub-clause (3) for the words “contains no fruit juice or fruit pulp”, the words “contains no fruit” shall be substituted.

8. In the Second Schedule to the said Order,

(i) in PART II, in column 5 relating to general characteristics, at the end, the following shall be added, namely :—

“Any syrups|sharbats containing a minimum of 10 per cent of dry fruits shall also qualify to be called as fruit syrups.”

(ii) After PART XVII relating to specifications for Oil Pickles, the following PART shall be added, namely :—

“PART XVII-A

Specifications for pickles

Pickle means the preparation made from sound, clean, raw or sufficiently matured fruit or vegetable or a combination of both, free from insect damage or fungus attack, preserved in salt, acid, sugar or any combination of the three. Pickle may contain onion, garlic, sugar, jaggery, edible oils, spices, spice extract or oil of turmeric, pepper, chillies, fenugreek, mustard seeds or powder, vegetable ingredients, asafoetida, Bengal gram, lime juice, lemon juice, green chillies, vinegar or acetic acid, citric acid, dry fruit including resins and fruit nuts. The pickles shall be free from added copper,

mineral acid, alum and shall show no sign of termentation. The product shall be free from sediments. The pickles shall be of pleasant taste and flavour.”

(iii) in PART XX, after item (f) and the entries relating thereto, the following item shall be inserted, namely :—

“(8) The fruits and vegetable products can be packed in all aseptic and flexible packaging material having food grade quality conforming to the specifications laid down by Bureau of Indian Standards (BIS).”

(iv) in PART XXIV, after item (b) and the entries relating thereto, the following items shall be added, namely :—

“(c) Aspartame subject to a maximum of 700 ppm and Aceflume K subject to a maximum of 300 ppm may be added in fruit products as artificial sweeteners.

(d) Food acids namely malic acid, citric acid, tartaric acid and lactic acid may be added in fruit products as acidulants as per good manufacturing practice.”

[F. No. 22-3/93-F&VP]
M. K. J. NAIR, Under Secy.

Note.—The Principal Order was published in the Gazette of India vide number S.R.O. 1052, dated 3rd May, 1955 and subsequently amended vide :—

1. S.R.O. 2080, dated 14th September, 1955.
2. S.R.O. 1259, dated 19th May, 1956.
3. S.R.O. 2120, dated 22nd September, 1956.
4. S.R.O. 1474, dated 30th April, 1957.
5. S.O. 2663, dated 17th December, 1958.
6. S.O. 2942, dated 6th December, 1961.
7. S.O. 1011, dated 31st March, 1962.
8. S.O. 166, dated 9th January, 1963.
9. S.O. 702, dated 18th March, 1963.
10. S.O. 582, dated 5th February, 1965.
11. S.R.O. 1890, dated 9th May, 1968.

12. S.O. 3427, dated 11th September, 1968.
 13. S.O. 5593, dated 30th December, 1971.
 14. S.O. 621, dated 22nd January, 1972.
 15. S.O. 3537, dated 28th October, 1972.
 16. S.O. 800(E), dated 31st December, 1973.
 17. S.O. 3044, dated 20th October, 1974.
 18. S.O. 741(E) dated 27th December, 1974.
 19. S.O. 78(E) dated 28th January, 1980.

उक्त अधिसूचना की सारणी के स्थान पर निम्नलिखित सारणी रखी जायगी, अर्थात् :—

सारणी	प्रधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग एवं अधिकारिता की स्थानीय सीमाएँ
	मुख्य प्रशासन अधिकारी, निर्माण, सेवा एवं संपदा प्रबंध निवेशालय, ऊर्जा विभाग का या उसके विक्रम साराभाई भवन, अनुशक्ति-नगर, मुंबई-400094	बृहत्तर मुंबई में परमाणु सेवा एवं संपदा प्रबंध निवेशालय, ऊर्जा विभाग का या उसके प्रशासनिक नियंत्रणाधीन स्थान।

[म. 5/1(2)/95-एसयूएस/331]

के. दामोदरन, उप सचिव

परमाणु ऊर्जा विभाग

मुंबई, 14 मई, 1997

का.आ. 1531—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिकारियों की बेवजही) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पूर्ववर्ती निर्माण आवास और पूर्ति भवालय के का.आ. सं. 1899, तारीख 25 मई, 1967 के अन्तर्गत प्रकाशित अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात् :—

टिप्पण : मूल अधिसूचना, अधिसूचना सं. का.आ. 1899, तारीख 25-5-1967 द्वारा भारत के राजपत्र में प्रकाशित की गई थी और तत्पश्चात् उसमें निम्नलिखित द्वारा संशोधन किया गया :—

- स्वास्थ्य, परिवार योजना, निर्माण, आवास और शहरी विकास मंत्रालय की अधिसूचना सं. का.आ. 4271, तारीख 17-10-1969
- परमाणु ऊर्जा विभाग की अधिसूचना सं. का.आ. 3433, तारीख 18-12-1974
- परमाणु ऊर्जा विभाग की अधिसूचना सं. का.आ. 2074, तारीख 2-6-1996

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 14th May, 1997

S.O. 1531.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment in the Notification of the Government of India in the erstwhile Ministry of Works, Housing and Supply, S.O. No. 1899, dated the 25th May, 1967, namely ;—

In the said Notification, for the Table, the following Table shall be substituted, namely ;—

TABLE

Designation of the Officer	Categories of Public Premises and local limits of jurisdiction
1	2
Chief Administrative Officer, Directorate of Construction, Services and Estate Management Vikram Sarabhai Bhavan, Anushaktinagar, Mumbai-400 094.	Premises belonging to or under the administrative control of the Department of Atomic Energy in Greater Mumbai.

[No. 5/1(2)/95-SUS/331]

K. DAMODARAN, Dy. Secy.

Note : The original Notification was published in the Gazette of India, vide Notification No. S.O. 1899, dated 25:5:67 and subsequently amended by :

1. Ministry of Health, Family Planning, Works, Housing and Urban Development, Notification No. S.O. 4271, dated 17-10-1969.
2. Department of Atomic Energy, Notification No. S.O. 3433, dated 18-12-1974.
3. Department of Atomic Energy, Notification No. S.O. 2074, dated 2-6-1996.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 3 जून, 1997

का०ग्रा० 1532.—पेट्रोलियम और खनिज पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का०ग्रा० 545 तारीख 12-2-97 द्वारा भारत सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के अधिकार को पाइप लाइन विद्वाने के लिए अंजित करने का आवश्य घोषित किया था।

अतः सक्रम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है;

तत्पश्चात् भारत सरकार ने उक्त रिपोर्ट पर विचार करने के लिए पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के अपयोग का अधिकार अंजित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए भारत सरकार एतद्-धारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन विद्वाने के प्रयोग के लिए एतद्-धारा अंजित किया जाता है।

इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार निर्णय देती है कि उक्त भूमियों में अधिकार भारत सरकार में निहित होने के अवाय गैस अथवार्दी आफ, इण्डिया लिमिटेड में सभी बाधाओं में मूल्य स्वप में बोधाना के प्रकाशन की इस तारीख को निहित होगा।

बाद अनुसूची

गझड़ा-ग्रामरा-फिरोजाबाद गैस पाइप लाइन प्रोजेक्ट						
जिला	तहसील	परगमा	मौजा	गाठा सं०	अंजित अंक०	अन्य विवरण
फिरोजाबाद	फिरोजाबाद	ग्रामीणगर केजरा	465	0. 0450		
			466	0. 2013		
			464	0. 0675		
			462	0. 0216		
			454	0. 0640		
			453	0. 0180		
			455	0. 1980		
			443	0. 3440		
			526	0. 1120		
			527	0. 0700		
			528	0. 1960		
			429	0. 0036		
			रास्ता	0. 0450		

1. 3860 हेक्टेयर

3. 424 एकड़

5 बीघा 9 विस्था 11 विस्थांसी

[सं० एल 14016/10/96-जी०पी०]

ग्रामेन्दु सेन, निदेशक

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 3rd June, 1997

S.O. 1532.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 545 dated 12-2-97 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land, Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government.

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now therefore, in exercise of the power conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule to this appended notification hereby acquired for laying the pipeline.

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd. free from all encumbrances.

CASE SCHEDULE

BAJHERA—AGRA—FIROZABAD GAS PIPE LINE PROJECT

District	Tehsil	Pargana	Village	Plot No.	Acquired area in Bigha/Acre	Remark
Firozabad	Firozabad	Alinagar Kenjra		465	0.0450	
				466	0.2013	
				464	0.0675	
				462	0.0216	
				454	0.0640	
				453	0.0180	
				455	0.1980	
				443	0.3440	
				526	0.1120	
				527	0.0700	
				528	0.1960	
				429	0.0036	
			Road		0.0450	
					1.3860 Hectare	
					3.4248 Acre	
					5 Bigha 9 Biswa 11 Biswansi	

[No. L-14016/10/96-GP]
ARDHENDU SEN, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नदि दिल्ली, 8 अप्रैल, 1997

उक्त अनुसूची में विद्यमान प्रविष्टियों के पश्चात् अन्त में निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, अर्थात् :—

विश्वविद्यालय या आयुषिकान संस्था	मान्यता प्राप्त आयुषिकान अर्हता	रजिस्ट्रीकरण के लिए		
		1	2	3
उत्तर महाराष्ट्र विश्वविद्यालय, जलगांव	बैचलर आफ मेडिसन एंड बैचलर आफ सर्जरी	एम्बीबीएस (यह एक मान्यता प्राप्त आयुषि- कान अर्हता के बल तब होगी जब वह श्री भाऊ साहेब द्विरे गवर्नरमेंट मैडिकल कालेज धूले में		

का. आ. 1533.—केन्द्रीय सरकार, भारतीय आयुषिकान परिषद् अधिनियम, 1956 (1956 का 102) की उपायां (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुषिकान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

प्रशिक्षित किए गए
विद्यार्थियों को नवम्बर,
1995 को या उसके
पश्चात् प्रवान की, गई
हों)

[सं. वी-11015/19/94-एम.ई. (यूजी)]

एस. के. मिश्रा, डैस्ट्रॉक्स अधिकारी

पाइ-टिप्पण : भारतीय आयुर्विज्ञान परिषद् प्रधिनियम, 1956 (1956 का 102) की सीसरी प्रतुसूची का भाग-II भारतीय आयुर्विज्ञान परिषद् प्रधिनियम, 1956 के भाग के रूप में भारत के राजपत्र (प्रसाधारण) के भाग II, धारा में दिनांक 31 दिसम्बर, 1956 के अंक संख्या 83 के तहत प्रकाशित किया गया था।

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of Health)

New Delhi, the 8th April, 1997

S.O. 1533.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule, after the existing entries the following entries shall be added at the end namely:

University of Medical	Recognised Medical Qualification	Abbreviation for registration
"North Maharashtra University Jalgaon	Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognised medical qualification only when granted on or after November, 1995 in respect of students being trained at Shri Bhausaheb Hire Government Medical College, Dhule)."

[No. V. 11015/19/94-ME(UG)]
S.K. MISHRA, Desk Officer

Note : The First Schedule to IMC Act, 1956, (102 of 1956) was published as a part of Indian Medical Council Act, 1956 in Part II, Section I of the Gazette of India (Extraordinary) vide notification No. 83 dated the 31st Dec., 1956.

नागर विमानन मंत्रालय

नई दिल्ली, 23 मई, 1997

का.आ. 1534 : केन्द्रीय सरकार, राजभाषा (मंध के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, नागर विमानन मंत्रालय के प्रशासनिक नियंत्रणाधीन, पवनहंस हेलीकाउट्स लिमिटेड के उत्तरी छोर कार्यालय, नई दिल्ली को, जिसके कर्मचारिवृत्त ने हिन्दी का कार्यमाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[संख्या ई-11011/8/95-हिन्दी]
रघुनाथ सहाय, निदेशक (राजभाषा)

MINISTRY OF CIVIL AVIATION

New Delhi, the 23rd May, 1997

S.O. 1534.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the Office of Pawan Hans Helicopters Ltd., Northern Region, New Delhi under the administrative control of Ministry of Civil Aviation, the staff of which have acquired the working knowledge of Hindi.

[No. E. 11011/8/95-Hindi]
RAGHUNATH SAHAI, Director (O.L.)

नई दिल्ली, 23 मई, 1997

का.आ:-1535 केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुमति में, नागर विमानन भवनालय के प्रशासनिक नियंत्रणाधीन, रेल संरक्षा आयोग के निम्नलिखित परिमंडल कार्यालयों को जिनके कर्मचारी-दृढ़ ने हिन्दी का कार्यालयक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है: (1) पूर्व परिमंडल, कलकत्ता, (2) दक्षिण पूर्व परिमंडल, कलकत्ता, (3) पूर्वोत्तर सीमान्त परिमंडल, कलकत्ता तथा (4) उत्तर परिमंडल, नई दिल्ली।

[मंदा E-11011/8/95-हिन्दी]

रघुनाथ सहाय, निदेशक (राजभाषा)

New Delhi, the 23rd May, 1997

S.O. 1535.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following circle offices of the Commission for Railway Safety under the administrative control of Ministry of Civil Aviation, the staff of which have acquired the working knowledge of Hindi: (i) East Circle, Calcutta, (ii) North-East Circle, Calcutta, (iii) North-East Frontier Circle, Calcutta and (iv) North Circle, New Delhi.

[No. E. 11011|8|95-Hindi]

RAGHUNATH SAHAI, Director (O.L.)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 20 मई, 1997

का.आ:-1536 केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिक्षेपियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त जक्तियों का प्रयोग करने हुए, तीव्र दो गई सारणी के स्तम्भ (1) में

उल्लिखित अधिकारियों को जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोग के लिए सम्बद्ध अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तम्भ (2) की तस्वीरी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों की बाबत उसकी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन सम्बद्ध अधिकारी को प्रदत्त जक्तियों का प्रयोग और अधिकारित करनेवाले का पालन करेंगे।

सारणी

अधिकारी का पदनाम

सरकारी स्थानों के प्रबंध और अधिकारिता की स्थानीय सीमाएं

(1)

(2)

- जेट्रो प्रभागीय इंजी रेल, कलकत्ता से संबंधित नियर मैट्रो रेल, कलकत्ता खुली भूमि/वृक्षान्तों/संरचनाओं के नौआपाचा कार डिपो (भूतल और भुमिगत दोनों पर) पर अधिकारिता के लिए मैट्रो रेल, कलकत्ता खण्ड का भारताधिक से संदर्भ स्टेशन तक
- प्रभागीय इंजीनियर, मैट्रो रेल, कलकत्ता के संदर्भ स्टेशन से सेंट्रल स्टेशन से सेंट्रल रेलवे इंजीनियरिंग कार डिपो तक के खण्ड का भारताधिक से संदर्भ स्टेशन से (सेंट्रल स्टेशन से भिन्न) टालींग कार डिपो तक।

[पा. स. 96/एल एम (एल)/14/90]
श्री०पी० त्रिपाठी, सचिव, रेलवे बोर्ड

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 20th May, 1997

S.O. 1536.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, (40 of 1971) the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being Gazetted Officer of the Government, to be estate officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officer by or under the said

Act within the local limits of his jurisdiction in respect of the public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of public premises and local limits of jurisdiction
1	2
1. Senior Divisional Engineer Incharge of Section from Noapara Car Depot to Central Station of Metro Railway, Calcutta.	For the Jurisdiction on open land/shops/structures (both on surface as well as underground) pertaining to Metro Railway, Calcutta from Noapara Car Depot to Central Station of Metro Railway, Calcutta.
2. Divisional Engineer incharge of the section from Central station (excluding central station) to Tollygunge car depot of Metro Railway, Calcutta.	For the jurisdiction on open land/shops/structures (both on surface as well as underground) pertaining to Metro Railway Calcutta from Central station (excluding central station) Tollygunge car depot of Metro Railway, Calcutta.

[File No. 96/LM(L)/14/90]
D.P. TRIPATHI, Secy., Railway Board

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 1 मई, 1997

का.आ. 1537—चलचित्र (प्रमाणन) नियमावली 1983 के नियम 7 तथा 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा-5 की उपधारा (i) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए और इस मंत्रालय की दिनांक 1-9-95, 15-9-95, 26-9-95, 3-1-96 14-3-96 तथा 29-1-97 की समसंबंधित अधिसूचनाओं के अनुक्रम में केन्द्रीय सरकार श्री मोहम्मद आरिफ रहमान निवासी-12/ई, फिरोजशाह रोड, नई दिल्ली को तत्काल प्रभाव से और अगले आवेशों तक केन्द्रीय फिल्म प्रमाणन बोर्ड के विली सलाहकार पैनल के सदस्य के रूप में नियुक्त करते हैं।

[फा.सं. 813/5/95-एफ(सी)]
आई.पी. मिश्रा, ईस्क अधिकारी

MINISTRY OF INFORMATION AND
BROADCASTING

New Delhi, the 1st May, 1997

S.O. 1537.—In exercise of the powers conferred by sub-section (i) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules 1983 and in continuation of this Ministry's notification of even number dated 1-9-1995, 15-9-1995, 26-9-1995, 3-1-1996, 14-3-1996 and 29-1-1997 the Central Government is pleased to appoint Shri Mohd. Arif Rehman R/o 12/E, Feroz Shah Road, New Delhi as a member of Delhi Advisory panel of the Central Board of Film Certification with immediate effect and until further orders.

[F. No. 813/5/95-F(C)]
I. P. MISHRA, Desk Officer.

मुद्रिपत्र

नई दिल्ली, 26 मई, 1997

का.आ.—1538.—इस मंत्रालय की दिनांक 10-4-97 की समसंबंधित अधिसूचना जिसके द्वारा केन्द्रीय फिल्म प्रमाणन बोर्ड के मुम्भई पैनल का पुनर्गठन किया गया था और 94 व्यक्तियों को दिनांक 21-4-97 से कायदा पैनल का सदस्य नियुक्त किया गया था, मैं—

- (i) क्रम सं. 62 के सामने “डॉ. मृणालिनी पटेल” के नाम के स्थान पर “श्रीमती मृणालिनी पाटिल” प्रतिस्थापित किया जायेगा; और
- (ii) क्रम मं. 72 के सामने “श्रीमती सुशीला हिरेकर” के नाम के स्थान पर “श्रीमती शैला हिरेकर” प्रतिस्थापित किया जायेगा।

[फा.सं. 809/4/96-एफ. (सी)]
आर.एन. मलहोत्रा, ईस्क अधिकारी

CORRIGENDUM

New Delhi, the 26th May, 1997

S.O. 1538.—In this Ministry's notification of even number dated 10th April, 1997 reconstituting the Mumbai advisory panel of the Central Board of Film Certification and appointing 94 persons as members of the said panel w.e.f. 21st April, 1997,—

- (i) against S. No. 62, for the name “Dr. Mrunalini Patel”, the name “Smt. Mrinalini Patil” shall be substituted; and

- (ii) against S. No. 72, for the name "Smt. Sushila Hirekar", the name "Smt. Shaila Hirekar" shall be substituted.

[File No. 809/4/96-F(C)]

R. N. MALHOTRA, Desk Officer

संचार मंत्रालय

(डाक विभाग)

नई दिल्ली, 4 जून, 1997

का.आ. 1539.—राजभाषा नियम, (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उप नियम (4) के अनुसरण में केन्द्रीय सरकार डाक विभाग के निम्नलिखित अधीनस्थ कार्यालयों को, जिनके 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. अधीक्षक डाकघर का कार्यालय,
रायगढ़ डिवीजन,
अलीबाग-402201
2. नासिक प्रधान डाकघर,
नासिक-422001
3. नागपुर जी.पी.ओ.,
नागपुर-440001
4. प्रबन्धक मेल मोटर सेवा का कार्यालय,
नागपुर-440001
5. अधीक्षक, डाक वस्तु भंडार का कार्यालय,
धावर, मुम्बई-400014
6. प्रबन्धक, डाक मोटर सेवा का कार्यालय,
पुणे-411001
7. कार्यपालक इंजीनियर का कार्यालय,
डाक सिविल डिवीजन,
नासिक रोड-422101

[स. ई.-11025-1/91-रा.भा.]
डा. गिरिवरदारी सिंह, निवेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS

(Department of Post)

New Delhi, the 4th June, 1997

S.O. 1539.—In pursuance of sub Rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notify the following subordinate offices of the Department of Post where 80 per cent staff has acquired the working knowledge of Hindi:—

1. Office of the Superintendent of Post Offices, Raigad Division, Alibag-402201.

2. Nashik Head Post Office, Nashik-422001.
3. Nagpur G.P.O., Services, Nagpur-440001.
4. Office of the Manager, Mail Motor Services Nagpur-440001.
5. Office of the Superintendent, Postal Store Depot, Dadar, Mumbai-400014.
6. Office of the Manager, Mail Motor Service, Pune-411001.
7. Office of the Executive Engineer, Postal Civil Division, Nashik Road-422101.

[No. E.11025-1/91-OL]

DR. G. D. SINGH, Director(OL)

श्रम मंत्रालय

नई दिल्ली, 15 मई, 1997

का.आ. 1540.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद, हनमकोडा के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण-I हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[संख्या एल-12012/76/92-आई आरबी-III]

सनातन, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 15th May, 1997

S.O. 1540.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Hyderabad Hanamkonda and their workman, which was received by the Central Government on 14-5-97.

[No. L-12012/76/92-IR B-III]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri. V. V. Raghavan, B. A., LL.B., Industrial Tribunal-I.
Dated, 29th day of March, 1997
Industrial Dispute No. 56 of 1992

BETWEEN :

Sri. P. Issac, Ex. Peon, C/o. Shri B. Laxmaiah, H. No. 693, Nereducherla, Nalgonda Dist. 508 218
Petitioner.

AND

The General Manager, State Bank of Hyderabad Region
VI, Zonal Office, Nukkaguda, Hanamkonda-500 010.
.. Respondent.

APPEARANCES :

Sri. C. Laxmmarayana, Advocate—for the Petitioner
M/S. K. Srinivas Murty and G. Sauna, Advocates
for—the Respondent.

AWARD

The Government of India, Ministry of Labour, New
Delhi by its Order No. L-12012/10/92-TR.B.II dt. 31-7-1992
made the following reference under Section 19(1)(d) and 2A
of Industrial Disputes Act, 1947 for adjudication :—

"Whether the action of the management of State Bank
or Hyderabad in dismissing Sri P. Issac, Ex. Peon,
vdu order dated 15-9-80 is justified ? If not, to
what relief the workman is entitled to ?"

2. The workman filed a Claim Statement contending as follows —

The petitioner is charged with (1) he forged the signature
of N. Gandhi on D. D. No. 363616 dt. 8-3-83 for
Rs. 1100 and got it signed by Miss M. Satyavathi
and collected the same through the Andhra Bank,
Wyra, from Wyra Branch of Respondent Bank to the
credit of her account and withdrew the amount (2)
He was absent from duty 5-4-1983 unauthorisedly
(3) the petitioner owes a sum of Rs. 280 since
15-4-82 and did not repay the same to Sri R. Ven-
kateswari (4) The petitioner paid only Rs. 2350 to
Nampalli Gopayya out of Rs. 2500 and the balance
of Rs. 150 is still due from the petitioner. The
petitioner was innocent and was made as a
scapegoat by the officers of the Bank. The charges
are not proved in the domestic enquiry. The
Management did not examine M. Gandhi and
M. Satyavathi relating to Charge No. 1 and
N. Gopayya relating to Charge No. 2. The peti-
tioner was found guilty by the Enquiry Officer, only
on the evidences of Branch Managers. The find-
ings of the Enquiry Officer are perverse. The
petitioner was dismissed from services, on the basis
of the findings of the Enquiry Officer. The appeal
of the petitioner was dismissed. The petitioner
did not report for duty due to ill-health. He can-
not be dismissed from service for mere absence
from duty. The charges are not proved. Hence
the petitioner is entitled to relief of reinstatement
into service, continuity of service back wages and
other attendant benefits.

3. The respondent filed a counter contending as follows :—

N. Gandhi and Gopayya need not be examined in the
enquiry. The charges are proved by the documents.
The Management noticed that the public reposes
confidence in the Banking Institutions and carry
out transactions and deposit money. They need
not be examined in the domestic enquiry the
reason being nobody will provoke outsiders to
give complaints against the Bank or its employees.
It is proved that the petitioner forged the signature
and misappropriated the money. If a workman or
employee simply absents themselves without intimation
it is difficult to run the Bank and entire
work will get disturbed as main job of the peti-
tioner is to take instruments and vouchers and
pass on them from seat to seat. They have to be
signed by several officers. When they fail to come
without intimation, it is difficult for the manage-
ment to make immediate arrangement. If the
Bank is taking temporary/casual staff for some
time, unions as well as individual employees are
raising dispute for their regularisation. Because
of unauthorised absence, to meet the daily needs
the Bank will be constrained to take the casual
or temporary employees. Further such casual em-
ployees are not coming through the Employment

Exchange. An opportunity has to be given to all
the unemployed similarly placed for recruitment.
The charges against the petitioner are proved and
he is not entitled for any relief. Hence his claim
petition may be dismissed.

4. The respondent filed record of domestic enquiry into
this Tribunal. After hearing of both the parties, this Tri-
bunal held by its order dated 23-1-1997 that he comes under
enquiry is conducted validly. Then both the parties are
heard on merits of the case.

5. The point for consideration is whether the petitioner is
entitled for relief of reinstatement into service, with back
wages and other attendant benefits etc. ?

6. Point. The petitioner has been working as Peon
in Wyra branch of State Bank of Hyderabad, he absented
from duty on 4-4-1983 and he sent a telegram for leave.
Thereafter he did not report for duty. He was served
with Ex. W1 suspension order dt. 18-6-1983 under the
one following circumstances. "The Nimmagadda Gandhi of
Wyra Town gave a complaint Ex. M16 dt. 12-4-83 to the
Branch Manager of State Bank of Hyderabad Wyra that a D.D.
bearing No. 363616 for Rs. 1100 was purchased in his name
from State Bank of India, Pamarru on 8-3-1983 payable
by State Bank of Hyderabad Wyra Branch, and the same
was sent by post. He has not received the same. He has
also not received the money. By then the Wyra Branch of
Andhra Bank presented Ex. M-18 D. D. on 14-3-1983
alongwith Ex. M17 letter and collected the cash. The
amount was remitted to the account of one Smt. M. Satyavathi.
Ex. M18 D. D. bears the endorsement "Please pay to
M. Satyavathi" signed by one N. Gandhi. The Andhra
Bank credited the same to the account of M. Satyavathi.
On receiving the complaint from N. Gandhi, the Manager
S.B.H. complained to Manager Andhra Bank Wyra on
12-4-1983. The Manager Andhra Bank sent a banker's
cheque of S.B.H. Wyra for Rs. 1100 drawn in the name of
N. Gandhi alongwith Ex. M-19 letter dated 18-4-83. He stated
therein that he recovered the amount of Rs. 1100 from
M. Satyavathi under whose account the above amount was
credited. On 18-4-1983 itself M. Satyavathi gave Ex. M21
Statement to the effect that the petitioner brought the D.D.
to her, made an Endorsement "please pay to M. Satyavathi"
signed as N. Gandhi and obtained her signature on it. She
further stated that the petitioner brought her to Andhra
Bank and got the D.D. deposited. Later on he made her
withdraw the amount of Rs. 1100 in instalments and took
away the amount. She does not know the signature of said
Gandhi. She paid that amount and gave a statement.
The Manager of Andhra Bank signed on the statement and
sent it to the Manager of the State Bank of Hyderabad
alongwith Ex. M20 Letter dt. 7-6-1983. He also found out
that when Miss M. Satyavathi who is a student, wanted to
open an Account in the Andhra Bank, the petitioner identified
her on 11-1-83. Ex. M25 is the xerox copy of the
Account Opening Form purported to have been signed by
M. Satyavathi as the person who is opening an account and
the petitioner as the person who introduced her.

7. The petitioner started to abstain from duty from
5-4-1983 having given telegram on 4-4-1983 from Madhira
requesting for Casual Leave. One Nampalli Gopayya
Gobbler gave Ex. M24 complaint on 3-5-1983 alleging that
out of the amount of Rs. 3,000 sanctioned to him as loan,
the petitioner took away Rs. 2500 and returned back
Rs. 2350 only in two instalments and he has yet to pay of
Rs. 150. There appears to be another complaint from one
R. Venkateswarlu that the petitioner owes him a sum of
Rs. 280. The Branch Manager sent Ex. M22 letter dt.
5-5-83 to the Regional Manager, setting out the above facts
and enclosing the above documents.

8. The Regional Manager suspended the petitioner by Ex.
W1 order dt. 18-6-83 and served Ex. M1 Memo dt. 31-1-1984
setting out the above facts which amounted to misconduct
and against the interests of the Bank within the meaning
of para 19.5(j) of the Bipartite Settlement and calling for
explanation from the petitioner. The petitioner gave Ex.
M2 reply dt. 11-4-84 inst denying the charges 1, 3 and 4
and pleaded that he did not report to duty due to ill health.
He stated therein that he was owing Rs. 280 to R. Venkates-
warlu Cloth Merchant as he purchased the cloth from him

on credit and that he repay the same. The Regional Manager dropped the complaint of R. Venkateswari and order for enquiry with regard to other 3 charges by Ex. M13 dt. 31-10-1984.

9. The enquiry was conducted by Sri P. Ramakrishna Rao as Enquiry Officer. The petitioner was defended by a co-employee. The then Branch Manager State Bank of Hyderabad Wyra Branch and the then Branch Manager Andhra Bank Wyra Branch were examined as M.W.1 and M.W.2 and their depositions are Exs. M13 and 14. The petitioner did not examine himself as witness but examined the present Branch Manager Wyra Branch as his witness to say that the signatures of the petitioner available in the Branch are not tallying with the signature on the application of Satyavathi for opening an account in Andhra Bank.

10. Considering the evidence the enquiry officer sent Ex. M26 report with the findings that the charges are proved. Thereupon the disciplinary authority recorded his own findings after discussing the evidence. He held that the charges 1 and 2 are proved and that the charge No. 3 is not proved. He gave Ex. M27 show cause notice dt. 31-3-1986 alongwith his finding calling upon the petitioner to show cause why he should not be dismissed from service. The petitioner gave Ex. M28 reply pleading that the charges are not proved against him as the material witnesses N. Gandhi and M. Satyavathi are not examined. He was found guilty of charge No. 1 and he did not report for duty due to sickness. The Disciplinary Authority considered the explanation and dismissed the petitioner from the service, from 13-9-1986 by Ex. M29 order. The petitioner preferred Ex. W3 appeal to the Zonal Manager and he dismissed the same by Ex. M30 order. Hence this dispute is raised.

11. We are concerned with the charges 1 & 2 only. Somebody purchased the Ex. M18 demand Draft at Pamarru Branch of State Bank of India in favour of N. Gandhi payable by State Bank of Hyderabad Wyra Branch on 18-3-83. But N. Gandhi complained to the Manager, State Bank of Hyderabad that he did not receive the D.D. sent by Post. It is obvious that D.D. did not reach the State Bank of Hyderabad Wyra at all as it was sent by post. The petitioner if at all, could take away the cover from Postman. There is evidence of Manager, Andhra Bank that the petitioner made M. Satyavathi to open an account by presenting Ex. M25 application. The Manager Andhra Bank is very certain that the petitioner signed on the said application in his presence and he opened the account of M. Satyavathi, as the petitioner who is also an employee of a Bank though another Bank, introduced her. No doubt the petitioner tried to show that the signature on Ex. M25 of the person who introduced the account holder is not his by examining the present Manager of State Bank of Hyderabad. The present Manager of State Bank of Hyderabad deposes that some letters in the disputed signature are tallying with the admitted signatures. Some letters are not tallying. He is not an Handwriting expert. Besides this, the documents produced by the present Manager for comparing the signature are not exhibited in the enquiry and they are not filed into Court.

12. The version of the management is that the petitioner having stolen the D.D. took it to Satyavathi, made the Endorsement "Please pay to M. Satyavathi" and signed as Gandhi. It is further case of the Management that the petitioner took her to Andhra Bank, got it deposited in her account and later on made her to withdraw the amount in instalments for his benefit. We have only the evidence that Satyavathi deposited the D.D. in the Andhra Bank which bank collected the value of the D.D. from the State Bank of Hyderabad and credited the same to her Account. We have also the evidence that she withdrew the amount in instalments. There is no direct evidence about himself making endorsement of D.D. "Please pay the contents to M. Satyavathi or taking away the money withdrawn by Satyavathi from that Branch. We have the statement Ex. M21 given by M. Satyavathi to the Branch Manager, Andhra Bank about the conduct of the petitioner. The learned counsel for the petitioner argued that N. Gandhi was not examined and so the endorsement said to have been made by the petitioner is not proved and when M. Satyavathi is not examined, the further facts alleged by the manage-

ment are not proved. As rightly pointed out by the learned counsel for the respondent it is a domestic enquiry and the Inquiry Officer cannot compel third parties to attend the enquiries. Of course he can address letters to them to appear and give evidence. The representative of the Management can also approach the witnesses and request them to give evidence. The non-examination of outsiders in the domestic enquiry cannot be a basis to hold that the charges are not proved, particularly so when he does not attribute any malandies either to the Manager of State Bank of Hyderabad Wyra Branch or to the Manager, Andhra Bank Wyra Branch or to any other third party, for implicating him. Therefore I hold that this charge is proved.

13. The second charge is that the petitioner abstained from duty from 5-4-1983 to 23-6-83. When he appeared on 26-4-83 a suspension order was served upon him. Except pleading that he fell sick at Madhira. The petitioner did not produce any material in proof of his sickness. An employee cannot just stay away from the employment more than 2 months without any reasonable cause, and plead it is not misconduct. Both the charges are proved against the petitioner.

14. The first charge involved theft, forgery, misrepresentation and misappropriation etc. It is a serious misconduct. Besides there is inordinate delay in raising the dispute. His appeal was dismissed on 6-9-1989. He raised the dispute in 1992.

15. In the above circumstances, an Award is passed holding that the petitioner is not entitled to any relief.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 29th day of March, 1997.

V. V. RAGHAVAN, Industrial Tribunal-1

Appendix of evidence

Witness examined on either side

NIL

Documents marked for the Petitioner (by consent)

- Ex. W-1—Suspension order dt. 18-6-83 issued to the Petitioner.
- Ex. W-2—Letter dt. 26-3-84 from the Disciplinary Authority to the Ptr.
- Ex. W-3—Representation dt. 22-10-86 submitted by the Petitioner to Appellate Authority, Zonal Manager, S.B.H., Hyd.
- Ex. W-4—Notice dt. 11-10-91 of ALC(C) Vijayawada to the Regl. Manager, S.B.H. Reg. I Zonal Office, Warangal.
- Ex. W-5—Minutes of conciliation proceedings.
- Ex. W-6—Failure report dt. 3-4-92 submitted by ALC (C) Vijayawada.

Documents marked for the Respondent (by consent)

- Ex. M-1—Letter dt. 31-1-84 issued to the petitioner calling for the explanation.
- Ex. M-2—Reply dt. 11-4-84 submitted by the Petitioner to Ex. M1.
- Ex. M-3—Disciplinary Prog. dt. 31-10-84 issued to the Petitioner.
- Ex. M-4—Appointment Letter dt. 31-10-84 of Enquiry Officer issued to Sri Khursheed Ali Officer, M. M-III.
- Ex. M-5—Appointment Letter dt. 31-10-84 of Presenting Officer issued to Sri K. Syamsunder Prasad.
- Ex. M-6—Letter of the Disciplinary authority dt. 4-6-85 changing the Enquiry Officer as Presenting Officer.

- Ex. M-7—Appointment of Enquiry Officer issued to Sri P. Ramakrishna Rao, Officer MM GS-III.
- Ex. M-8—Order of the Disciplinary Authority dt. 4-6-85 appointing Sri P. Ramakrishna Rao as E.O.
- Ex. M-9—Appointment Letter dt. 4-6-85 of Presenting Officer issued to V. V. Soma Raju Officer MM GS-II.
- Ex. M-10—Order of the Disciplinary Authority dt. 4-6-85 appointing Sri V. V. Somaraju as Presenting Officer.
- Ex. M-11—Notice dt. 9-10-85 of the E.O. to the Petitioner.
- Ex. M-12—Enquiry Proceedings.
- Ex. M-13—Deposition of MW1 in the enquiry.
- Ex. M-14—Deposition of MW2 in the enquiry.
- Ex. M-15—Deposition of DW1 in the enquiry.
- Ex. M-16—Ex. M.E. No. I in the enquiry.
- Ex. M-17—Exhibit M.E. No. II in the enquiry.
- Ex. M-18—Exhibit M.E. No. III in the enquiry.
- Ex. M-19—Exhibit M.E. No. IV in the enquiry.
- Ex. M-20—Exhibit M.E. No. V in the enquiry.
- Ex. M-21—Exhibit M.E. No. VI in the enquiry.
- Ex. M-22—Exhibit M.E. No. VII in the enquiry.
- Ex. M-23—Exhibit M.E. No. VIII in the enquiry.
- Ex. M-24—Exhibit M.E. No. X in the enquiry.
- Ex. M-25—Exhibit M.E. No. XI in the enquiry.
- Ex. M-26—Findings of the Enquiry Officer.
- Ex. M-27—Findings dt. 31-3-86 of the Disciplinary Authority.
- Ex. M-28—Representation dt. 26-4-86 made to the Disciplinary Authority State Bank of Hyd., Hanamkonda.
- Ex. M-29—Intimation dt. 15-9-86 about the final order to the petitioner by the Disciplinary Authority Regd. Manager.
- Ex. M-30—Order dt. 6-9-89 of the Appellate Authority passed against the petitioner.

V. V. RAGHAVAN, Industrial Tribunal-I,

नई दिल्ली, 16 मई, 1997

का.आ. 1541.—ओरोगक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कंथोलिक सेरियन बैंक के प्रबन्धतंत्र के संबद्ध नियंत्रकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट ओरोगक विवाद में केन्द्रीय सरकार श्रम न्यायालय, अरुनाक्षुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-97 को प्राप्त हुआ था।

[स. एल-12012/1/92-आई आर (बी-III)]

सनातन, डॉस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Catholic Syrian Bank Ltd. and their workman, which was received by the Central Government on the 14-5-97.

[No. L-12012/1/92-IR (B-III)]
SANATAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Labour Court, Ernakulam)

(Wednesday, the 29th day of January, 1997)

Present :

Shri Varghese T. Abraham, B.A., LL.M., Presiding Officer.

Industrial Dispute Nos. 3 of 1992(C) and 6 of 1992 (C)
In I.D. 3/92 (C) :

BETWEEN

The Chairman, M/s. Catholic Syrian Bank Ltd., Head Office, St. Mary's College Road, Post Box No. 502, Thrissur-680 020.

(Kerala)

AND

The General Secretary, The Catholic Syrian Bank Staff Association, 47, Unity Building, Mannadiar Lane, Trichur-680 001 (Kerala).

In I.D. 6/92 (C) :

BETWEEN

The Catholic Syrian Bank Staff Association represented by the General Secretary (Union).

AND

The Chairman, Catholic Syrian Bank Ltd., Thrissur (Management)

Representations :

Sri M. Venugopalan, Advocate, Chembottil Lane, Thrissur-1.
Sri Paul Puthur, Advocate, Mother Thesia Street, Kuriachira, Thrissur-6.

.. For Management
.. For Union

COMMON AWARD

IN I.D. 3/92 (C) :

The Government of India as per order No. L-12012/1/92-IR. B. III dated 11-2-92 referred the following industrial dispute for adjudication :

"Whether the action of the management of M/s. Catholic Syrian Bank Ltd., Trichur, in not allowing fixation of pay to Shri K. D. Mathew, Sub-staff on his promotion to clerical cadre at par with Shri T. K. Paul, another similarly placed sub-staff, is justified? If not, to what relief the workman is entitled to?"

2. The case of the workman as can be seen from the statement of claim to capsulated as follows :—

The workman Sri K. D. Mathew was promoted to the clerical cadres in March, 1986. He was working as a sub-staff at the M. G. Road Branch of Ernakulam. He was promoted as clerk to Madurai Branch. At the time of promotion he was given less than one increment. This was informed to the Head Office. He was replied that it is as per the procedure of the bank that wages are fixed. When Sri T. K. Paul who was junior to Sri Mathew was promoted along with him, the former was given one increment more than the pay given to Mathew. The reason given by the management is that his pay was fixed inclusive of daftary allowance. So the decision of the bank is wrong. It is unjustifiable to give senior pay to an employee who is two years junior

to the present workman. He was payable basic pay + D.A. Special allowance. So the fixation of pay of Sri Mathew is wrong. He is entitled to get one more increment. If the present situation is continued it will affect his retirement benefits. The decision of the bank with respect to the fixation of the pay at the time of promotion is wrong. 13 other workers who were promoted along with Sri Mathew was paid salary including daftary allowance. As the conciliation failed the matter is referred to this Court for adjudication. So the union prays for fixation of pay allowing one more increment with effect from 24-3-86.

3. The defence : It is admitted that Sri Mathew was promoted to the clerical cadre from the subordinate cadre and posted to Madurai. Sri Mathew was given one increment in excess inadvertently by a mistake. In a batch of 14 persons including Sri Mathew was promoted from Subordinate cadre to the clerical cadre, mistake occurred in the case of 7 persons regarding fitment of their salaries. When the mistake was detected the bank decided to rectify the same. Out of 7 persons in whose fitments the mistake crept in, one person was given wrongly 3 increments whereas in the case of the other six persons only one increment was given. The bank took steps to recover the excess amounts wrongly paid to all the seven persons including that of Paul who was given two increments. The union cannot compel the management to continue the mistake inadvertently committed. The policy of the bank regarding the fitment of salary and allowances in the case of promotion of persons from subordinate cadre to clerical cadre is published in the circular dated 2-12-83. That policy is stated in para 5 of the written statement. This policy was accepted by the union and all the employees. All promotions subsequently made were in accordance with the above norms and neither the union nor any employees objected the same. Sri Mathew was promoted in 1986 and he raised a complaint in 1989, 3 years after the promotion. The union took up the case of only K. D. Mathew fully realising that it was result of mistake in the fitment relating to the 7 persons. Nobody other than Sri Mathew has raised a complaint to compel the management to continue the inadvertent mistake that has crept in. Contrary allegations are not true. The bank did not commit any wrongful act. The fitment policy was accepted by the union. So it is estopped from raising a claim contrary to the terms of the policy in respect of an individual employee. The claim is frivolous and vexatious. So it is prayed for dismissing the claim.

4. The union filed a rejoinder reiterating the averments in the claim and controverting the defence contentions.

I. D. 6/92 (C) :

5. I.D. 6/92 (C) arises out of a petition under section 33A of the I.D. Act. The petitioner is the secretary of the Catholic Syrian Bank Staff Association. He filed a complaint before the Labour Commissioner with respect to the grievance of Sri Mathew on 29-10-91. The policy of the bank in the fitment of the salary at the time of promotion from the subordinate staff to clerical cadre is questioned. Another reason is that Mathew is not given pay equivalent to other workers similarly situated. During the pendency of I.D. 3/92 (C) the management illegally altered the service conditions and benefits of the Mathew and others. That order is illegal and is liable to be cancelled. The salary of Mathew was deducted and he was directed to remit the arrears of salary in violation of section 9A of the I.D. Act. When the adjudication proceedings are pending with respect to an industrial dispute, the deduction of the salary is illegal as it is violative of section 9A of the I.D. Act and that is done without any notice to the union. The action of the management is unilateral. So it is prayed for setting aside the order dated 17-3-92 issued by the management.

6. The defence taken up by the management is as follows; The above complaint under section 33A is not maintainable. There is no unlawful or illegal change of the conditions of service of employees during the pendency of I.D. 3/92(C). So the prayer in the complaint is not maintainable. The reference in I.D. 3/92(C) is not regarding the wrongful fitment policy of the management. The dispute raised by the union related only to the fitment of salary of Mathew on his promotion from subordinate cadre to the clerical cadre and to consider it on humanitarian grounds. Fitment policy

of the bank was not the subject matter of conciliation. The procedure adopted by the management is not liable to be enquired. There is a norm for promotion and fitment of salary as per the circular dated 2-12-83. That circular was issued on the basis of a consensus of opinion arrived at after holding discussions with the unions. That norm was not opposed by any union. In fact it was accepted, adopted and acted upon till date, both by the management and the unions. In 1986, alongwith Mathew there were others also in the batch who were promoted to the clerical cadre from the subordinate cadre. Nobody other than Mathew has raised any dispute. Similar issue was raised by one N. P. Francis, challenging the fitment policy on promotion. After considering the report on the subject, the Central Government as per order dated 20-8-91 stated that the 'dispute is not fit for reference on the ground that prima facie it would appear that the dispute does not subsist'. In addition, the matter has been raised belatedly after 7 years. The allegation that fitment policy is wrong cannot be sustained. The reasoning adopted by the union that Mathew was not given the same salary on a par with others promoted along him, is devoid of merit. It is incorrect to say that the Assistant Labour Commissioner as per his order dated 23-12-91 resolved the dispute and intimated the parties accordingly. The act done by the management is not a violation of section 9A of the I.D. Act. The order of the management was only by way of correction of a mistake inadvertently made. As per the fitment policy dated 2-12-83, for the purpose of fitment salary to subordinate staff does not include any special allowance drawn on a temporary basis. Salary consisted of basic pay, dearness allowance and special allowance, if any, drawn on a permanent basis. But by mistake the bank took into account the special allowance drawn on a temporary basis in the case of 7 promotions including Sri Mathew. When the mistake was detected the bank decided to rectify the mistake and to recover the excess amount paid. It was thereupon that the bank issued letters to the above said 7 persons. Nobody other than Mathew has disputed the action of the bank in rectifying the mistake. The recovery of the excess amount paid is effected in easy monthly instalments by deductions from salary. Rectification of a mistake cannot be dubbed as a violation or alteration of a service condition as contemplated in section 9A of the I.D. Act. To maintain a complaint under section 33A, the workman must first make out a case of contravention of the section 9A. No right becomes vested in an employee merely by reason of his filing a complaint under the above section. Neither the institution nor the pendency of such complaint will bar the employee exercising his ordinary right of rectifying a mistake committed by him by cancelling the defective proceedings and passing a fresh order in accordance with the law. So the complaint is ill advised, misconceived and devoid of merit and it is liable to be dismissed.

7. Evidence in this two cases consists of the testimony of WW1, MW1, and Exts. M1 to M33 and W1 to W21.

8. The points which emerge for consideration are :

- Whether the management committed any unlawful acts in disallowing the fixation of pay Sri Mathew, Sub-staff on his promotion to clerical cadre at par with Sri T. K. Paul another similarly placed sub-staff and if so, is it justifiable ?
- To what relief, if any, is the worker Sri Mathew entitled to?
- Is there violation of section 9A of the I.D. Act as alleged by the workman in I.D. 6/92(C)?

9. Points 1 and 2 : At the outset I am inclined to say that the jurisdictional competency of the Labour Court or Industrial Tribunal is confined to the four corners of reference made by the appropriate Government. In other words it cannot travel beyond the scope of reference and enter into an adjudication beyond the scope of reference. The latter is illegal exercise of power. On the other hand a proper adjudication has to be made only on the industrial dispute referred by the appropriate Government. The evidence of record in this case will amplify that what is challenged by the union is the fitment policy issued by the management

which is not the subject matter of the dispute under reference. It is also to be noted that apart from the present workman six other workers were also affected by the order and they have no grievance at all to be voiced and they have no turned up with a dispute espoused by the union. It is in this backdrop that the evidence in this case has to be analysed, appreciated and evaluated. WW1 is the workman in this case. He is at present working at the Vaniambadhi branch in Tamil Nadu of the management. At the time of reference he was working in Madurai branch as a clerk. He was promoted from the sub-staff on 24-3-86. At that time he was working as a sub-staff at the M. G. Road branch in Ernakulam. His case is that when he was a sub-staff he was given basic pay, D.A., Special allowance, H.R.A., C.C.A., and Cycle allowance etc. From the inspection of his entry in the bank service in 1979 till the date of promotion he was given special allowance and that was given during the period of leave also. The grievance of the workman is that he did not get one increment. It is submitted by him that 14 persons including the workman were promoted. His complaint is that the other 15 persons were given one increment more than that of WW1. Sri T. K. Paul is junior. At the time of promotion he got salary in excess of WW1. When he was sub-staff he was getting the daftary allowance. He reiterates that in other banks pay is fixed on the basis of basic pay, D.A. and daftary allowance etc. and along with that one increment is given. So according to him, he is entitled to get one more increment from 24-3-86. As conceded by the management, Exts. W1 to W21 are marked. His another complaint which led to I.D. 6/92(C) is that deduction of wages was made during the pendency of I.D. 3/92(C) which is ab-initio illegal. According to him alleged circulars issued by the bank are not result of discussion with the bank. He denied the defence suggestion that special allowance is given when workman has to perform a duty which entitled him to draw special allowance. According to him special allowance due to all is given as per bipartite agreement. When that question was again repeated, he said that he does not know whether all peons are given special allowance. According to the management special allowance is only a privilege. He admits that he joined the bank as per the service conditions of the bank. He joined the service of the bank on 20-7-79 as a temporary peon. At that time there was special allowance and after six months he was confirmed. From that date onwards till the date of promotion in 1986 he was getting special allowance. He admits that during the temporary period special allowance was not paid to anyone. He admits that the management has issued circular as W1 with respect to special allowance in 1980. Ext. W1 is dated 11-3-80. It deals with allocation of duties attracting special allowance to subordinate staff. Clause 2 of Ext. W1 says that eligibility for special allowance is only a temporary privilege and the employees are entitled for the same only for the period during which the bank requires them to perform such duties. Clause 3 of Ext. W1 says that on transfer from one branch to another, payment of any special allowance to the employees so transferred will be subject to the availability of the work attracting special allowance at the branch to where such transfer is effected. It is further stated in W1, that allocation of duties attracting special allowance may be done under the absolute discretion of the Manager/Departmental Heads. It is also clarified that assignment of duty attracting special allowance to more than one person need be done only after getting prior sanction from Head Office. When Ext. W1 is read as a whole it can rightly be said that special allowance can be claimed by the employees who are allocated work which require some special performance of duties, and the allocation of such duties is within the managerial discretion. It is not an existing right available to all sub-staff but it is a managerial discretion to grant special allowance to those employers who are required to work which attract special allowance. From this it follows that special allowance is payable only to compensate the workman for the special work performed by them and it cannot be claimed as of right when such work is not done by the workman. Ext. W3 is the circular issued by the management on 2-12-83. It deals with revision of service conditions. Ext. W3 is issued by the management after consultation with the union. The management had taken into account the representation made by the employees who had put in several years service. It is stated in clause A of W3 that with effect from 23-11-83 on promotion from subordinate cadre to clerical cadre the basic pay in the clerical cadre to promotee will be notionally fixed in such a way that the salary drawn by him in sub-

ordinate cadre is not reduced. After fixing the basic pay as above, the next increment in the clerical cadre will be added to the basic pay. Salary of clerical staff and subordinate staff for the purpose of fitment as mentioned above includes basic pay, dearness allowance and special allowance, if any drawn on a permanent basis, but does not include any special allowance drawn on a temporary basis and other allowance. This will also show that special pay is allowable to the clerical promotees only if they have drawn special allowance on a permanent basis but does not on temporary basis. The workman has no case that he was getting special allowance on a permanent basis. The consistent case of the management is that it is only a temporary arrangement and it is only a privilege given to the workman who is compelled to do some special work and for that purpose the allowance is given to compensate them. So the contention of the management is more acceptable than the one argued by the learned counsel for the workman. Ext. W4 is the circular dated 2-3-84 dealing with service conditions of the Award staff. This circular was issued by the Board of directors in consultation with the demands made by the union and the employees. There is no case for the workman that Ext. W4 is violated. Ext. W5 is a circular dated 6-3-86. They are 14 persons who are found eligible for promotion including the workman under reference. Ext. W6 is a letter sent by the workman to the Chairman of the management complaining that he was given daftary allowance on promotion as additional increment and that his seniority is overlooked which leads to monetary loss. Ext. W7 is intimation from the bank stating that the fitment is done as per norms in the year 1985, subsequent to the promotion from subordinate cadre to clerical cadre and the management expressed its inability to consider the grievance made in W-6. Ext. W-9 is a letter sent by the workman to the chairman on 7-3-91 complaining that he was not given a possible increment on promotion from sub-staff cadre to clerical cadre with effect from 24-3-86 and that Sri T. K. Paul who is junior to him got promotion and was given an additional increment by reason only of having worked as daftary at branch, Malappuram. Ext. W10 is a reply informing that the fitment was made on the basis of norms prevailing in the bank and that the workman has not been deprived of any benefits eligible to him under the formula. Ext. W11 is a letter addressed to the Assistant Labour Commissioner (C) by the union making similar complaint. This is dated 29-10-91. Ext. W12 is a reply sent by the management stating that the workman had accepted the promotion policy followed by the bank and that the association had taken up grievance taken up by Mathew. It is also informed that special allowance is allocable if it is drawn on a permanent basis, but does not include any special allowance drawn on a temporary basis or on other allowances. It is also brought to the notice of the ALC that similar complaint was made by Sri Francis and that complaint was rejected on the ground that no dispute exists. Ext. W13 is the minutes of the joint discussions of the conciliation of the ALC between the management and the union with regard to the alleged discrepancy in salary fitment of Mathew. As per Ext. W13 it can be seen that there was no conciliation settlement and it ended in failure. Ext. W14 is summons issued in I.D. 3/92(C) dated 22-2-92. As per Ext. W15 dated 17-3-92 the management informed the workmen that his total pay was fixed to Rs. 1241/- and that or subsequent verification as per circular No. 221/83 dated 2-12-83 it is found that he is entitled to a total amount of Rs. 1176.60 and that there was an excess payment of Rs. 64.40 per mensem. He was informed that excess P. F. was also credited in his account. So he was requested to pay an amount of Rs. 10183.63 as on 31-3-92 and the management decided to recover the amount from his salary with effect from April, 1992. It seems that Ext. W15 is the grievance which led to the above I. D. Ext. W-17 is a letter from Madurai Branch to Sri Mathew stating that reduction was effected as per Telephonic instruction received by the Head Office. Ext. W18 is the letter issued to the Manager of the Madurai Branch regarding telephonic conversation with reference to the salary payable to Sri Mathew. As per the revised salary shown in Ext. W18 the management directed the management to deduct an amount of Rs. 300/- per mensem with effect from April, 1992 onwards until the full amount of Rs. 10183.63 is recovered. Ext. W-19 is letter issued by the worker to the management informing violation of section 9A of the I.D. Act and to cancel the deduction order. Ext. W20 is an order in I.A. No. 2499/92 in O.S. 832/92

passed by the Principal Munsif, Thrissur. That suit was filed by the workman against the Manager. As per Ext. W20 the request of the workman for temporary injunction was disallowed. Ext. W-21 is an order issued by the Principal Officer of the Management to Sri Mathew stating that his increment falls due on 2-1-92 and he is given increment of Rs. 110/- and that his basic pay will be Rs. 1920/-. These are the documentary evidence on the side of the workman. In cross-examination the workman states that the circular of 1983 has not been followed. To that version, no supporting evidence is produced. On the other hand additional increment was given as per Ext. W3. He admits that out of the 14 promotions excluding himself, the remaining persons were given one increment. Then he admits further that a recovery was made from 7 persons. It is to be noted that the persons from whom recovery was effected did not challenge the recovery nor the fitment policy except by the present workman. He was confronted with question whether the recovery was effected from the salary of Paul, when re-fixation was made. To that question he pleaded ignorance and according to him he did not make an enquiry about that aspect. Yet another question put to WW1 was whether salary was re-fixed with respect to Paul. He was given salary less than that of the present workman. To that question also he pleaded ignorance. Thus it can be seen that WW1 has not consistent case. On the other hand what is brought out in evidence is that the bank has adopted fitment policy as per the circular issued by the bank in consultation with the union employees and other managerial personnel. That fitment policy is not challenged by the union. Deduction was made from the excess salary of several employees including the present workman. They have no challenge about the recovery so far. Therefore the present workman has no legally sustainable ground to challenge the order of recovery.

10. As against the evidence of the workman, the evidence of management consists of the testimony of MW1 and Exts. M1 to M33. It can be seen from the testimony of MW1 and from the documentary evidence of the management that recovery was effected from the salary of 7 persons for having paid excess amount and the present workman is one among them. MW1 swears that out of 7 persons WW1 was given two increments whereas one person was given an excess of one increment. The fitment policy is spoken by MW1 and it is contained in Ext. W3 which is discussed earlier. He swears that W3 was issued as per the discussion between the union officials and the management, and that W3 is not questioned. It can also be seen that WW1 was promoted to the clerical cadre in 1986 and he raised the industrial dispute only in 1989. Deduction was made in 1992. Deduction of excess amount of six other persons is not challenged. MW1 says that unions are fully aware of W3 circular. With regard six other persons the union did not raise their dispute. MW1 says that when basic salary of WW1 was fixed at the time of promotion, mistake has crept in and when the mistake was detected that was informed to the workman and consequently recovery is made. According to MW1 when the workman was given promotion to the post of the clerk, he is not entitled to get daftary allowance. There will be more than one daftary in branch. In cross-examination MW1 reiterated that the defect was noticed in 1992. There is nothing to show that Ext. W3 was issued unilaterally by the management. If there was no bilateral discussion and consentent unilateral issuance of fitment policy, it was intended to the union to raise a dispute. No such dispute is raised so far. It can also be seen that WW1 and Paul were promoted on the very same date. So Paul cannot be treated as a junior to WW1. MW1 denied that special allowance is given only on permanent basis. The relevant clauses of the first, second and third binartite settlements between the Indian Bankers Association and Oil India Bank Employees Association are extracted below :

"The additional duties and functions involving greater skill or responsibility, which would entitle a workman to a special allowance, are more particularly enumerated for each category of workmen, in Annexure 'B' hereto. Special allowances will be payable for all or any of the duties listed in Annexure 'B' except where it is specifically provided therein that for a particular category the additional duties entitling him to a special allowance, include or involve all the duties listed under that category. A workman will be entitled to a special allowance if

he is required to perform duty/duties and/or undertake the responsibilities listed against the category, irrespective of his designation/nomenclature or any general authority vested in him. The special allowance would continue to be drawn by a permanent incumbent while on leave. A workman who is asked to work temporarily in a post carrying a special allowance would be entitled to such a special allowance pro-rata for such period during which he occupies that post."

11. The cumulative effect of the above discussion is to hold that the workman has no grievance to be voiced and the dispute is unnecessarily raised. There is no evidence to show that the management disallowed fixation of pay to Sri Mathew on his promotion to clerical cadre at par with Paul. No unjustifiable order is passed by the management. Therefore the workman is not entitled to get any reliefs under industrial law. Points so found.

12. Point No. 3 : What is evident from the record is that mistake has crept in while fixing the salary of the present workman. When that mistake was detected deduction was ordered to be made. Correction of mistake which is subsequently traced out cannot be termed as alteration of conditions of service. So there is no question of violation of section 9A of the I.D. Act. Apart from these, the recovery of excess amount paid is also not a contravention of the provisions of Section 33 of the I.D. Act. Therefore I.D. 6/92(C) has no legs to stand on and hence the complaint under section 33 A has to be dismissed. I do so.

In the result, an award is passed in I.D. 3/92(C) answering the reference against the workman holding that the workman is not entitled to get any relief under industrial law. The complaint which led to I.D. 6/92(C) has no merit at all and it is dismissed.

Ernakulam.

29-1-1997.

VARGHESE T. ABRAHAM, Presiding Officer

APPENDIX

Witness examined on the side of Management :

MW1—Sri M. C. Emerson.

Witness examined on the side of Union :

WW1—Sri K. D. Mathew.

Exhibits marked on the side of Management :

Ext. M1—Copy of confirmation letter dated 17-1-80 from Management to workman.

Ext. M2—Copy of transfer Certificate dated 17-3-86 from Management to workman.

Ext. M3—Copy of confirmation letter dated 17-1-80 from the Management to another workman.

Ext. M4—Copy of transfer certificate dated 17-3-86 from Management to workman K. T. Paul.

Ext. M5—Copy of notice dated 26-5-92 from management to K. T. Paul.

Ext. M6—Copy of letter No. S/A-1732/2362/92 dated 20-4-92 from Management.

Ext. M7—Copy of a representation dated 25-3-92 from workman K. T. Paul to Management.

Ext. M8—Copy of a transfer certificate dated 17-3-96 in the name of T. A. Mohandas.

Ext. M9—Copy of letter No. S-1692/92 dated 18-3-92 issued by the Management.

Ext. M10—Copy of a letter No. S/A-265/2944/92 dated 26-5-92 issued by the management.

Ext. M11—Copy of letter No. S/A-1265/2360/92 dated 20-4-92 issued by management.

Ext. M12—Copy of a confirmation order dated 24-8-79 from management.

Ext. M13—Copy of transfer certificate dated 17-3-86 issued to Frank C. Alappat.

- Ext. M14—Copy of an order dated 25-5-92 issued by Management.
- Ext. M15—Copy of a letter No. S/A-1665/2357/92 dated 20-4-92 of the Management.
- Ext. M16—Copy of a letter dated 21-3-92 from one Frank C. Alappat to Management.
- Ext. M17—Copy of another letter dated 10-4-92 from Frank C. Alappat.
- Ext. M18—Copy of letter No. S-1690/92 dated 17-3-92 from Management.
- Ext. M19—Copy of transfer certificate dated 22-3-86 issued to one M. A. Rappai.
- Ext. M20—Copy of a letter No. S-1691/92 dated 18-3-92 issued to Rappai.
- Ext. M21—Copy of letter No. S/A-1211/2361/92 dated 20-4-92 issued by the management.
- Ext. M22—Copy of letter No. S/A-1211/2947/92 dated 26-5-92 issued by Management.
- Ext. M23—Copy of confirmation order dated 22-11-78 issued by Management.
- Ext. M24—Copy of transfer Certificate dated 17-3-86 issued to one Johnson Joseph.
- Ext. M25—Copy of representation dated 2-5-92 from one M. A. Rappai to Management.
- Ext. M26—Copy of letter No. S-1693/92 dated 18-3-92 issued by Management.
- Ext. M27—Copy of a letter No. S/A-1371/2946/92 dated 25-5-92 issued by Management.
- Ext. M28—Copy of a letter No. S/A-1371/2359/92 dated 20-4-92 issued by Management.
- Ext. M29—Copy of a representation dated 12-5-92 from one Johnson Joseph to Management.
- Ext. M30—Copy of transfer certificate dated 17-3-86 issued by Management.
- Ext. M31—Copy of an order No. S-1689/92 dated 18-3-92 issued by Management.
- Ext. M32—Copy of a letter dated 3-6-92 from one T. F. Joseph to the Management.
- Ext. M33—Copy of an order No. S/A-1112/2363/92 dated 20-4-92 issued by the Management.

Exhibits marked on the side of Union :

- Ext. W1—A circular dated 11-3-80 issued by Management.
- Ext. W2—A circular No. 88/83/BC/S/19 dated 20-5-83 issued by Management.
- Ext. W3—Circular No. 221/83/BC/S/38 dated 2-12-83 issued by Management.
- Ext. W4—Circular No. 54/84/BC/S/9 dated 2-3-84 issued by Management.
- Ext. W5—Circular No. 61/86/BC/S/7 dated 6-3-86 issued by Management.
- Ext. W6—Copy of a letter dated 6-3-89 from workman to Management.
- Ext. W7—A letter No. S/1485/89 dated 21-3-89 from Management to workman.
- Ext. W8 Circular No. 252/90/SC/S/27 dt. 12-7-1990 issued by Management.
- Ext. W9—Copy of a representation dated 7-3-91 from workman to Management.
- Ext. W10—A letter No. S-2620/91 dated 21-5-91 from Management to workman.
- Ext. W11—Copy of a letter dated 29-10-91 from Union to the Assistant Labour Commissioner (Central), Ernakulam.

- Ext. W12—Copy of a letter No. S/PR-10/6991/91 dated 27-11-91 from management to Assistant Labour Commissioner (Central).
- Ext. W13—Copy of the minutes of the Joint discussion/conciliation proceedings held on 28-11-91 before the Assistant Labour Commissioner (Central), Ernakulam dated 22-2-92.
- Ext. W14—Summon dated 22-2-92 issued from Labour Court, Ernakulam to the union in I.D. 3/92(C).
- Ext. W15—Copy of a letter No. S/1688/92 dated 17-3-92 from Management to workman.
- Ext. W16—Copy of summon dated 3-4-92 issued from Labour Court, Ernakulam in I.D. 6/92(C).
- Ext. W17—Copy of letter dated 15-4-92 from Management to workman.
- Ext. W18—Copy of a letter No. S/A/2358/92 dated 16-4-92 from Management.
- Ext. W19—A letter dated 21-4-92 from workman to the Management.
- Ext. W20—Copy of order dated 7-4-93 in IA 2409/92 in O.S. No. 832/92 of the Court of the Principal Munsiff, Thrissur.
- Ext. W21—Copy of proposal regarding increment as per Circular No. 290/90 dated 5-8-90.

नई दिल्ली, 16 मई, 1997

का.आ. 1542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अवध ग्रामीण बैंक लखनऊ के प्रबन्धित नियोजकों और उनके कर्मकारों के बीच, अनुवंश में निश्चिट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक आधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[मंस्ता एल-12012/245/95-आई आर (बी.जी.)
सनातन, डेस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1542.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Awadh Gramin Bank, Lucknow and their workman, which was received by the Central Government on the 14th May, 1997.

[No. L-12012/245/95-IR(BI)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 35 of 1997

In the matter of dispute between :

Chairman,
Awadh Gramin Bank,
B-129, Nirala Nagar,
Lucknow.

AND

General Secretary,
Awadh Gramin Bank Employees Union
Office, Awadh Gramin Bank,
B-192, Nirala Nagar,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/245/95-I.R.(B) dated 23rd January, 1997 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Management of Avadh Gramin Bank, Lucknow to deduct 8 days wages from the salary of March, 1995 of Shri R. K. Verma, Staff Clerk-Cashier is legal and justified ? If not to what relief the workman is entitled to ?

2. It is needless to give the details of the case as on 20th March, 1997 the concerned workman had given in writing for withdrawal of case. Hence the reference is answered against the concerned workman for want of prosecution and proof and concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 मई, 1997

का.आ. 1543.—ओद्योगिक विवाद अधिनियम, 1947 (1947 ना 14) की बाग 17 के अनुसरण में, केन्द्रीय सरकार एवं भी आई के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निरेष ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, काशीपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[स. एल-12012/124/94आई आर. (बी I)]
सनातन, ईस्ट अंड कारी

New Delhi, the 19th May, 1997

S.O. 1543.—In pursuance of Section 11 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management

of S.B.I. and their workmen, which was received by the Central Government on 14-5-1997.

[No. L-12012/124/94-I.R (B-I)]
SANATAN, Desk Officer.

ANNEXURE

Before Sri B. K. Srivastava Presiding Officer
Central Government Industrial Tribunal cum

Labour Court Pandu Nagar, Kanpur.

Industrial Dispute No. 105 of 1995

In the matter of dispute :
BETWEEN

Smt. Maya Devi

w/o Sri Ram Lal

Post Khas District Bijnaur

AND

Branch Manager

State Bank of India

Village & Post Gohawar

District Bijnaur

Appearance :

V. Singh for the workman and
S. N. Sharma for the management.

AWARD

1. Central Government, Ministry of Labour, vide its notification number L-12012/124/94/I.R (B-I) dated 28-8-95, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of State Bank of India in terminating the services of Smt. Maya Devi, w/o Sri Ram Lal, Safai Karamchari w.e.f. 26-4-92 is just and legal? If not, to what relief the workman is entitled to?

2. The case of the concerned workman lady Smt. Maya Devi is that she was engaged as a sweeper on Gohawar Branch of the opp. party State Bank of India on 27-1-88 on part time basis and 1/3rd of the pay was paid as wages. His services were brought to an end on 28-4-88 after 84 days. She was again engaged on 1-12-90 and worked upto 25-4-92. Thereafter his services were terminated on 26-4-92. His termination is bad being in breach of section 25F G & H of I.D. Act.

3. The opposite party has filed reply in which the period of appointment as given in the claim statement has not been disputed. Their case is that she was paid Rs. 425/- as wages. She was doing work of other persons as well. As she was not satisfied with the wages of the opposite party, she abandoned the job w.e.f. 31-4-92.

4 In the rejoinder the abovementioned facts have been disputed.

5. In support of his case Branch Manager, Suresh Kumar Sharma M.W. 1 after going through the recorded has stated that the concerned worklady stopped coming to office of her own. This fact has not been denied by the concerned worklady w.w. 1. Further she has stated that she is not doing work at any other place. From the above scrutiny of evidence it will be evident that concerned worklady has not specifically denied the fact that she had not abandoned the job. Thus the evidence of management is unrefuted. Hence acting upon this evidence, I come to the conclusion that the concerned worklady had abandoned the job. On this premises the question of termination of concerned worklady in breach of any provision of Industrial Disputes Act does not arise.

6. Hence the concerned worklady is not entitled for any relief.

7. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 14 मई, 1997

कानून 1544.—ग्राम्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में नवीनीय सरकार एसोसिएशन के प्रबंधसंघ के संदर्भ निवेदियों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ग्राम्योगिक विवाद में आंदोलन अधिनियम, हैदराबाद के द्वारा को प्रकाशित करती है जो नवीन सरकार को 12-5-97 को प्राप्त हुआ था।

[सं. L-22012/58/94-ग्राम्य प्राव. सं-II]
द.०० एम देवित, डैस्ट्र. अधिकारी

New Delhi, the 14th May, 1997

S.O. 1544.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workman, which was received by the Central Government on 12-5-1997.

[No. L-22012/58/94-IR C II]
B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, HYDERABAD-II, AT HYDERABAD

PRESENT :

Sri E. Ismail, B.Sc., LL.B., Chairman.

Dated : 13th March, 1997

I.D. No. 208/94

(CENTRAL)

BETWEEN

The Chief Vice President,

S.C. Workers Union,

C/o Makdham Bhavan,

Himayathnagar,

Hyderabad-20

. . Petitioner

AND

The General Manager,

(Personnel),

S.C. Co., Ltd.,

Kothagudem

. . Respondent

APPEARANCES :

Sri B. Gangaram, Representative for the petitioner.

Sri William, Burra, Advocate for the Respondent.

AWARD

This is a reference U/s. 10(1)(d) of the Industrial Disputes Act, 1947 made by the Government of India, Ministry of Labour, New Delhi under L. 22012 (58)/94-IR(C-II) dated 24-6-94 for adjudication of the Industrial dispute annexed herein as follows :—

“Whether the action of the Management in denial to promote S/Shri A. Narasiah, Sreeramulu Rajalingu, Ch. Somaiah, Pothula Venkateswamy, A. Narasiah, Ippa Bapu, Abdul Hafeez, Jam Bhoomaiah, Agidi Baniah, Madam Rayamallu, Denda Viglachesham, Ade Rajender, Appalli Ramachander, Konati Sambariah, General Mazdoor Cat-I to the post of Shaft Sinking Mazdoor Cat-IV with effect from 1-1-1990 and to place them in cadre V with effect from 1-4-1990 in violation of cadre scheme recommended by the Central Wage Board for Coal Mining Industries, is legal and justified ?

If not, to what relief the workmen are entitled to?”

The Petitioner filed a Claim Statement to the following effect :

That the case of 19 workmen for promotion as Shaft Sinking Mazdoor for payment of appropriate category wages was pending for a long time. Out of 19 workmen, 5 have opted to work as General Mazdoor in Shantikhani Bellampalli area and the remaining 14 workmen have been transferred from MVK 3 in Bellampalli area to RK 1A Incline in Ramakrishnapur Area from 1-2-1992. The dispute of these 14 workmen has been pending since October, 1991. Since the shaft sinking work was over in MK 3 Incline. Hence transferred to RK 1A Incline in Ramakrishnapur Area. During March, 1990 these workmen were appointed as General Mazdoors Cat-I Wages w.e.f. 30th September, 1989 and they were advised to work in air shaft in MVK 3 Incline till further instructions vide letter dated 27-3-1990 from the Superintendent of Mines MVK 3 Incline and they carried on work continuously in the Shaft Sinking Section only.

They have been doing all the jobs of Shaft Sinking since 1988 continuously against the permanent requirement, although they were treated as Badli Fillers.

These workmen are entitled for promotion as Shaft Sinking Mazdoor Cat-IV w.e.f. 1-1-90 and after completion of 3 months in Category IV i.e., w.e.f. 1-4-1990 they should get category-V as per the recommendations of the Central Wage Board for Coal Industry, 1967.

Their nature of jobs is lifting of guarders and they have to ride upto 65 feet height at the time of erection. Since this Shaft is the highest having 65' height whereas at Srirampur and R.K. Pur, the shaft height is 30 only. They are carrying coal baskets in the shaft from 601 distance and fill it in the buckets and on the bank also it is filled in the tubs and load the tube. They are erecting chocks, drilling bottom and sides in coal and stone, carry cement slabs of 3' and fitting to the top and doing masonry work. They are also doing all jobs of operations of grab loaders fixing of buntons and extension of pipes etc. As per the provisions of the Special Cadre Scheme covering team of workers employed in the various jobs and operations of shaft sinking stipulated on pages 62, 63 of Vo-I of Central Wage

Board Recommendations of Coal Mining Industry which are agreed and implemented by the S.C.C. Ltd., These 14 workers should have been promoted to Category-IV on completion of 3 months satisfactory service and after completion of 6 months period they are entitled to promotion to Category-VI and Category-V if they are competent to undertake all jobs connected with shaft sinking except the operation of grab loaders, fixing of buntons and extension of pipes and after 6 months they should be given Category-IX (old). In the instant case, these workmen was doing all above jobs, since above 3 years, which is against the Central Wage Board recommendations for coal mining industry under the chairmanship of late Sri Salim Merchant. The contention of the Management that the erstwhile units of N.C.D., (National Coal Development Corporation) where highly mechanised shaft sinking operations were carried out and these recommendations of coal Wage Board 1967 have no relevance to the shaft sinking units of Singareni Collieries is quite wrongful and misleading. As a matter of fact these recommendations of Central Coal Wage Board were made in the year 1967 and so it is clear that about 30 years back new and modern technology was not available in the N.C.D.C., Moreover basing on the method of Work of shaft sinking in the National Coal Development Corporation, the Hungarian Engineers are the first who have introduced the shaft sinking in N.C.D.C., and the Singareni Collieries. Therefore the above said Scheme of the Central Coal Wage Board recommendation of 1967 fully apply to the shaft sinking workmen of the Singareni Collieries and it was already implemented all these days in Singareni Collieries.

Hence these 14 workmen working in R.K.IA incline of Ramakrishnapur area are to be promoted as Shaft Sinking Mazdoors in Category-IV w.e.f. 1-1-90 and Category-V w.e.f. 1-1-90 is quite justified, hence they may be granted the above relief.

The respondent filed a counter to the following effect :—

That the Respondent is a Public Limited Government Company and its appropriate Government is Central Government. To the knowledge of the respondent management the Central Government has conferred powers on Industrial Tribunal (Central) which was popularly called as Industrial Tribunal-I and ESL,

Court and Central Government has not conferred any powers to any of the Industrial Tribunals, hence, this Industrial Tribunal-II inherently lacks in the jurisdiction, it may be decided as a preliminary issue.

It is to be submitted that in the Respondent company there is no excavation section deep shaft and mechanised mines as prevailing in National Coal Development Corporation for which the special wage structure was laid down. Infact, the National Development Coal Wage Agreement has taken into consideration the wage structure and promotional avenues of employees of different coal companies which includes the respondent company also, and when finalising the National Coal Wage Agreement this wage structure has been specifically restricted to N.C.D.C. only. Hence at the outset it is substituted that it is clear that the dispute does not pertain to respondent Company and thus on this ground alone the Government of India should not have referred the dispute, for adjudication.

The respondent submits that the promotion of the workmen to the higher category depends on various factors like existence of a clear vacancy, qualifications, experience and suitability of the workmen to the post etc. Therefore, the petitioner cannot claim promotion as a matter of right. Normally the Tribunals do not interfere with the promotion policy of the Management unless the petitioner established that there is a deviation of any rule or violation of any settlement. As such, the reference made by the Government of India in this matter, is bad in law. The workmen under dispute were initially appointed as Badli and thereafter they were observed as General Mazdoors in Category-I to carry-out the works such as lifting material transportation and issue tools etc. It is seen that the General Mazdoors are only performing the duties of unskilled nature and hence they were being paid Category-I Wages. The workmen therefore are not entitled to be placed in Category-IV-directly from Category-I. The dispute was closed before the Conciliation Officer and A.L.C. Manchiorial as it was decided to settle the dispute as and when vacancies arise. The allegation that all the 14 mazdoors are performing the duties of shaft sinking mazdoors since 1988 continuously is not correct. The workmen in dispute were engaged to work as General Mazdoors and the nature of job entrusted to the said workmen was of unskilled work for which they are paid Category-I wages. However, whenever the workmen in dispute were engaged as Shaft Sinking Mazdoors in exigencies of work i.e., when the permanent workmen remain absent on leave etc., they were paid acting allowances in Category-IV. There is no requirement of Shaft Sinking Mazdoor as alleged by the union. On the contrary 2 shaft sinking Mazdoors were surplus. The actual requirement is 16 shaft sinking Mazdoors but there are 18 on rolls. The Mazdoor is deployed as per the Manpower study conducted by the Industrial Engineering Department. In any event were posting the workmen under dispute at shaft sinking does not automatically confer any right to be promoted as shaft sinking Mazdoors on Category-IV wages ignoring the seniority, suitability, of the workmen besides availability of vacancies. The workmen in dispute were General Mazdoors in Category-I and as such they cannot be promoted to Category-IV without working in Categories-II and III. The recommendation of the Central Wage Board for Coal Industry 1967 does not have any relevance in the present dispute. Moreover the special cadre scheme provided by the Central Wage Board for Coal Mining Industry is for highly mechanised Shaft

Sinking units in N.C.D.C. only and the same cannot be made applicable to Shaft Sinking units in S.C.C.L. Further the recommendations of the Central Coal Wage Board were subsequently modified several times. On the other hand, the nomenclature for General Mazdoors is laid down in JBCCI and the said recommendations are having binding force on the parties and the respondent Management is scrupulously following the same.

These petitioners are engaged in the unskilled jobs like tub and material supply. Watchman duties, tools issuers, coal cleaning and carrying the Coal Blocks and present cement slabs. The allegation that they were performing the duties of shaft sinking Mazdoors continuously is not correct and untenable. Further the General Mazdoor in Category-I who are working in shaft Sinking unit are promoted as Shaft Sinking Mazdoors in Category-IV. When there are no vacancies it will create industrial unrest and labour disputes and it will also disturb the existing practice on promotions of the workmen. Hence the reference may be offered in their favour.

On behalf of the petitioner Sri A. Narasayya is examined as WW-1. He deposed that 19 Badli fillers have worked in the shaft sinking section with the respondent. That on 25-5-1988 they were transferred to M.V.K. III incline. In M.V.K.V. incline also they have worked in Shaft Sinking Section. Only 10 Badli fillers were appointed as General Mazdoors Category-I w.e.f. 30-9-1989 vide Office Order dated 23-3-1990, marked as Ex. W-1.

On 27-3-1990 another Office order was issued and they were advised to work in Air Shaft M.V.K. III Incline till further instructions. The said Office Order is Ex. W-2. Ex. W-3 is dated 25-3-1991 another batch of 5 coal fillers were taken as General Mazdoor in Category-I Wages w.e.f. 1-7-90 they worked in the Shaft sinking section. Out of 19 workers 5 have opted transfers to other Mines and the 14 workers are continuing in shaft Sinking Section also. He is adducing evidence on behalf of 14 workmen including himself. In shaft Sinking Section they are doing all the jobs along with others. The nature of job is lifting of head gear upto 63 feet and fitting of gudders on head gear and drilling holes in Coal and Stone and building walls and timbering work and they used to work on bank head as trammer also and Line Man i.e., laying of rails and lifting of the Cement slabs put on the Guddars, they used to haul the malba buckets put on to the bank and throw it down. The shaft well is 9 feet diameter the perimeter is 18 feet. They used to go underground in the well by 28 ladders. The depth of the shaft well is 150 feet only. The contention of the Management that they have been doing the jobs of General Mazdoor Grade I wages is quite wrong. 3 workmen of Category-I working in Shaft Sinking in Goleti-I Incline were promoted as Shaft Sinking Mazdoors Category-4 w.e.f. 19-4-1983 vide Office Order Ex. W-4. The 3 workmen Sarvasri Gandham Komaravva P. Ayalayya and Qalle Rajam were promoted from Category-I to Category-III Shaft Sinking Mazdoors. That he has been promoted to Category-V wages as Shaft Sinking Mazdoor w.e.f. 1-9-1987 vide Ex. W-5. In 2 shifts 32 persons have been working in shaft sinking section in R.K.-IA Incline. Out of 32, 18 are in Category-V and 14 are in Category-I wages. The contention of the Management that there are surplus persons in shaft sinking of R.K.-I Incline, is not correct. As a matter of fact in 2 shifts 4 workmen are less. Throughout the period of 8 years i.e., from July, 1987 they have been performing all the jobs of shaft sinking only. Ex. W-6 is the Union Letter dated 20-9-1991 demanding payment of Category-IV wages w.e.f. 1-1-1990 and category-V w.e.f. 1-4-1990. Conciliation Proceedings were taken place several times. But the case was not settled. The Conciliation proceedings were ended in failure. Ex. W-7 is the report of failure dated 30-9-1993 addressed to the Secretary, Government of India, Labour and Employment New Delhi. That they should be paid 4th Category wages w.e.f. 1-1-1990 and Category-V Wages w.e.f. 1-1-1995.

In the cross-examination he deposed that he studied upto 2nd standards. He does not know English. Prior to 30-9-1989 he was working as Badli Worker. It is true and if a permanent worker is absent the Badli worker is taken into work in place of permanent worker. If a Coal Filler does not turn up the Badli worker would be given the job of Coal Filling. Likewise if the General Mazdoor Category-

is absent he would be taken as General Mazdoor Category-I. If he was to work as Badli Filler he will be paid wages on piece rate basis. Likewise if he works as General Mazdoor Category-I he will be paid wages on time rate basis. The entire period he worked at Mahavir Khani-V Incline he was a Badli Worker.

He was working as Coal Filler in MVK-V Incline and thereafter at shaft. As a Badli worker he worked in shaft sinking Unit. He has got payment slips showing that he worked in Air Shaft in MVK-5 Incline but he did not produce them in Court. He does not know prior to 30-9-1989 whether he was a Badli worker or permanent worker. He does not know whether Badli worker is a permanent worker or not. It is true that when the services of Badli worker are regularised he is appointed as a Coal Filler normally. It is correct that he was given appointment order on 30-9-1989 posting him as Coal Filler. It is correct that they made a joint representation dated 2-2-1990 requesting the management to post them as General Mazdoor Category-I. It is true that on their representations management issued another office order dated 23-3-1990. Ex. W-1 posting them as General Mazdoor Category-I with retrospective effect from 30-9-1989 posting him as Coal Filler. It is correct that during the relevant period he worked in shaft sinking. It is true that he was paid Category-I wages. Three persons Mr. Gandham Koriarayya, Tatpalle Allayya and P. Rajam were appointed as shaft sinking Mazdoors and they were confirmed as such vide Ex. W-4. It is true that there are 32 workers working in shaft sinking unit. It is also true that shaft sinking Mazdoors Category-IV and General Mazdoor Category-I would be working in shaft sinking unit. It is true that shaft sinking Mazdoors and General Mazdoors will perform works like Machinery, drilling, Laying slabs with guider, mixing the cement and send carrying the water carrying the bricks to the work spot etc. He denied that they are working as Helpers. He denied that there are no vacancies.

Sri Ch. Madanayya one of the Shaft Sinking Mazdoor of Category-V is examined as WW-2. He deposed that the petitioners are performing the same jobs as they are. That in 1989 all of them were transferred from MVK-5 Incline to MVK-3 Incline. In MVK-3 Incline also the petitioners have done the same jobs which they have done. He got category-IV Wages after working in Category-I for 3 years in the shaft. After completion of 5 years in Category-IV he was promoted to Category-V as Shaft Sinking Mazdoor. After completion of 10 years service in Category-V they will get promotion in Category-VI.

In the Cross-examination he deposed that in their Shaft Sinking unit both shaft sinking Mazdoors as well as General Mazdoor Category-I are working. Wherever Shaft Sinking Mazdoors absent themselves the General Mazdoor Category-I working in the same unit will act and acting allowance will be paid. It is true that in their Shaft Sinking unit there are Senior experienced workers and Junior inexperienced workers. It is not true to suggest that senior workers will be performing skilled work in senior others un-skilled work. It is true that when he is to do the masonry work, material will be supplied by other workers. He denied that he is deposing falsely.

Sri Y. Gottalap, Dy. General Secretary, S.C. Workers union deposed as WW-3. That he knows the recommendations of the Central Coal Board regarding the Shaft Sinking Workmen Ex. W-8. The Management of Singareni Collieries has accepted these recommendations. In the Shaft Sinking Section the Mazdoors who completed 3 years of service in Category-I were promoted as Category-4 and those completed 5 years in Category-4 were promoted to Category-5. Ex. W-9 is the Office order promoting Gurdamari Yadagiri General Mazdoor Category-I as Shaft Sinking Mazdoor Category-4 and similarly others. Ex. W-10, Ex. W-11 and Ex. W-12 are the minutes of the Conciliation proceedings dated 6-1-1995. As per the agreement those who have completed 5 years service in category-4 were promoted as Category-5 Shaft Sinking Mazdoors. 10 Shaft Sinking Mazdoors of GDK, 6-B who were in Category-I were promoted as Roof Bolding Mazdoors Category-4.

In the cross examination he deposed that he is not working in the S.C.C.L. He is first time Dy. General Secretary of the union getting an honorarium of Rs 2,000 P.M. His Head quarters is at Ramagundum. One Mr. L. Prakash is the

Central Secretary. He gets a monthly salary of Rs. 1,800 P.M. They both do the same type of work as per the seniority salaries are paid. The shaft sinking unit where the petitioner workers were working was visited by him and found that there were General Mazdoors of Category-I, Shift Sinking Mazdoors Category-IV and also Shaft Sinking Mazdoors Category-V. Category-I Mazdoors will supply materials to the construction side while Category IV and V will engage in the construction work. Ex. W-8 Wage Board Recommendations is of 1967. It is not true to suggest that the Central Wage Board recommendations published in Volume-I page No. 62 is exclusively for the implementation of the N.C.D.C. It is further not true that they are not applicable to Singareni Collieries Workmen. In the Respondent Company Categories of Mazdoors are about six and category-I is the lowest and from which workmen are promoted to category-II to Category-VI. After acquiring some skill the workmen are promoted to Category-II etc. Badli workers cannot aspire for promotion until he is made permanent in the company. He denied that Mazdoors are not entitled for promotion as there is no vacancy to promote them. The Minutes Ex. W-12 will be made applicable only to the workmen in respect of whom the demand was raised. It is true that this agreement was entered into with the Management after I. D. 208/94 was filed. He denied that he is deposing falsely.

On behalf of the Respondent Sri P. A. V. S. Sharma is examined as MW-1. He deposed that the Central Wage Board for Coal Mining Industry has made certain recommendation with regard to the workmen employed in the Coal Industry for whole India in the year 1967 and more particularly the Chapter VIII (B) of the said report. Ex. M-1 is the extract of Volume-I of the report of the Central Wage Board for the Coal Mining Industry in respect of National Coal Development Corporation including Categorisation of the excavations Section Deep Shaft and Mechanised mines which is incorporated in Chapter VIII(B) of the said report. This Chapter pertains and applicable only to the Collieries of National Coal Development Corporation (NCDC), and not to other 9 mines.

Shaft Sinking in Singareni is for the purpose of providing more ventilation to the workmen working in the Mines, it is not the main work. The Main production in Singareni is Coal Production. There are 16 Shaft Sinking Mazdoors in Category 4 and Category-5 required to work. As against the required number of Shaft Sinking Mazdoors of 16 there are 18 workers working. In R.K.-I Shaft Sinking there are total 14 mazdoors, they are in the Category-I, Un-skilled. Ex. M-2 is the Industrial Engineering Manpower requirement report for Shaft Sinking unit at R.K. I(A) Incline. As per the recommendations of the I.E.D., 16 Shaft Sinking Mazdoors in Category-4/5 and 18 General Mazdoors in Category-I unskilled are required to work. The additional 2 shaft sinking Mazdoors are utilised in place of absenteeism, sickness and leave etc. There are no vacancies in the R.K. Shaft Sinking unit of the R.K.-I Incline of Shaft Sinking Mazdoors in Category-4. No General Mazdoor junior to the petitioner has been promoted as Shaft Sinking Mazdoor in Category-4, at R.K.-I Incline Shaft Sinking Unit. General Mazdoors are performing the duties of unskilled labour work. They assist the Shaft Sinking Mazdoors Category-4 who are performing the skilled jobs. They work under the direction of shaft sinking Mazdoors of Category-4. SSM's perform the skilled jobs like erection of Head Gear Equipment, Hauler shed etc. where as General Mazdoors Category-I (Unskilled) assist the Shaft Sinking Mazdoors, for the purpose of mixing of the sand and cement, cleaning, to remove the mud to carry the tools etc. Some times they are asked to officiate as Shaft Sinking Mazdoors Category-4 in the event of absence of permanent Shaft Sinking Mazdoors working in the unit, and they are paid the difference of wages between Category-I and Category-4. Ex. M-3 is the statement containing the particulars of officiating acting General Mazdoors who were engaged as Shaft Sinking Mazdoors for the period from November, 1922 to April 1993. Ex. M-4 is Memorandum of settlement arrived at under Section 12(3) of the I. D. Act, entered into between the Management of the Singareni Collieries Co. Ltd. and their workmen represented by the Mazdoor union on 29-1-1981.

In the cross-examination he deposed that he has been working in the company for the last 35 years in various capacities. He has not worked at any time in the Shaft Sinking Department. He knows the various jobs performed by the employees engaged in shaft sinking unit. Promotion of daily rated

workmen are from Category-I to Category-6 SSM's are given Category-4 and after 5 years in Category-4 they are promoted to Category-5. He denied that ever Category-1 Mazdoors are doing the same job as Category-4 and 5 are doing. In Bellampalli Area as per Ex. W-4 three Shaft Sinking Mazdoors of Category-I Sarvasri Katipallu Allaiah, Palli Rajem and Gandham Komaraiah are confirmed as Shaft Sinking Mazdoor in April 1983 and as per Ex. W-5 the same three workmen of Shaft Sinking Mazdoors were promoted to Category-5 from 1-9-87. Probably there were vacancies and they were appointed in higher category at Balampalli Area. As per Ex. W-11, 6 workmen were promoted to higher category in Ramagundam Area in the existing Vacancies considering their candidature after promotion. It is not true that if there are no vacancies in Category-4 in Shaft Sinking Unit, they can be absorbed in other jobs of Category-4 on par with Godavari Khani, agreement as per Ex. W-12.

Ch. Venkateswar Rao, Superintendent of Mines is examined as M.W.2. He deposed that prior to working at R.K. I Incline he was working at R.K. I Incline for about 2 years. Shaft Sinking Mazdoors will be performing the duties of Drilling, Basting, Hoist Operation Sweveling etc. General Mazdoors supply the drilling material to the drillers. Loading and unloading of the mitch, cleaning of the Shaft Top, Platforms, Tools issuing etc. The purpose of Shaft Sinking is to make ventilation arrangement for mines. Apart from Shaft Sinking Mazdoor in Category-4 and 5 and General Mazdoors in Category-I no other workmen is employed in the Shaft Sinking Unit. Duration of the Shaft Sinking is 1 to 2 years depending upon the depth of the Shaft.

In the cross-examination he deposed that he worked in R.K. I-A from May, 1989 to June, 1991. That he was Colleries Manager in Godavari Khani. He worked as Assistant Manager in 6-B Incline. That it is not necessary to promote General Mazdoors after completion of 3 years from Category-I to Category 4. It is subject to vacancies. That after 10 years of service in a particular category or Grade the Mazdoors are being promoted the next higher grade under service linked upgradation scheme. He admitted that due to lack of vacancies in the Shaft Sinking Category-I Mazdoors are given opportunity to choose to go on production side where promotion opportunities will be more and their promotion will be considered as per the seniority and for regular vacancies.

Sri B. Ehanu Prasad, Personnel Manager was examined as M.W.3. He deposed that Ex. M5 is the Shaft Sinking Section. Ex. M6 is the annual report and accounts for the year 1994-95. According to Ex. M6 on page 3 the company has sustained a loss of Rs. 410.83 crores. The losses have increased to Rs. 720 crores cumulatively by March, 1996. It is still incurring under loss. The unskilled Labour are recruited through Employment Exchange and posted as Badlis depending on the requirements. The Badlis are regularised as Fillers and General Mazdoors unskilled. These petitioners were taken in the year 1995, they were regularised as General Mazdoors Category-I in the year 1988. There are Category II and III which are semi-skilled jobs. Category-4 and 5 are skilled jobs. Depending upon the degree of skills acquired by an unskilled worker and other factors such as work performance, attendance and conduct are taken into account. For effecting promotion each mine by itself is a unit to consider the promotion of daily rated workers from lower category to the higher category. General Mazdoors are engaged in higher time rated jobs as and when there are absenteeism. If vacancies are available they get promoted to Shaft Sinking Mazdoors Category-IV. There are no vacancies of Shaft Sinking Mazdoors in R.K.I incline.

In the cross-examination he deposed that as per 74 Annual report of 1994-95 during the year 1993-94 the company has got a profit of Rs. 16 crores 26 lakhs and during the year 1994-95 the Co. got a profit of Rs. 24.99 crores. The out put for man shift has increased 0.8% during 1993-94. The share capital equity has increased 3 folds. The petitioner workmen are working in R.K.I Incline since 1992. He knows regarding the minutes of discussion dated 10-08-1995 about the regularisation of Badlis during 1995. In Ramakrishnapur area 780 Badlis have been regularised from 01-09-95 who have put in one year continuous service, during any year have been regularised from 01-09-95 if they have put in 190 attendance. Ex. W12 pertains to Ramagundam-I area dated 6-1-1995 and this has no relevance to the petitioner's case for promotion. That such an offer was made

when three vacancies arose at M.V.K. 3, Incline in the year 1991, so these General Mazdoors decline and demanded that all the 14 workmen should be promoted as Shaft Sinking Mazdoors Category-IV.

It is argued by the Learned Counsel for the petitioner that on the request of the Personnel Manager, S.C.C. Ltd., of Ramakrishnapur area the dispute was closed on 14-10-1992 and he agreed to settle the issue through mutual discussions, during conciliation proceedings held on 14-10-1992 and during our discussions on 15-10-1992 the Management representative agreed to promote the petitioners from 1-1-1990 notification and arrears will not be paid from 1-1-90 but went back, hence they had to raise a dispute at the Corporate level. The Respondent has agreed in the counter that they had agreed to settle the dispute by mutual discussions. The cases of the workmen are that they have been working in the Shaft Sinking from July, 1987 for some years. The Singareni Management also implemented the Coal Wage Board recommendations of 1967 and later on changed the system of payments for the Shaft Sinking Workers. That in the other mines for Eg; Golati Mine of Bellampalli area and in the Godavari Khani Mines of Ramagundam area the General Mazdoors Category-I are promoted to Category-IV. After working in category-I for 3 years and after completion of 5 years in Category-IV they are promoted to Category-V. As the work performed is of same nature in Shaft Sinking Unit Category-I are promoted to Category IV and later promoted to Category-V. Ex. W12 is the alternative methods to absorb this mazdoors in category-IV jobs. It is the latest one signed on 6-1-1995. M.W.2 in the cross-examination agreed and deposed as follows :—

"It is true that due to lack of vacancies in the Shaft Sinking, Category-I Mazdoors are given opportunity to choose to go on production side (Mines) where promotion opportunity will be more and their promotion will be considered as per seniority and for regular vacancies

M.W.3 has admitted in the cross-examination that :—"Whenever a vacancy in Shaft Sinking arises the General Mazdoors are considered. Such an offer was made when 3 vacancies arose in MVK-3 Incline in the year 1991 these General Mazdoors declined and demanded that all the 14 workmen be promoted as Shaft Sinking Mazdoors Category-IV. When these 3 vacancies are not filled up and how can there be two surplus Shaft Sinking Mazdoors, this itself is contradictory. That the company is accustomed to adopt unfair labour practice and they did not regularised the 14,000 badli workers during 1987 and 1988 and recently vide agreement dated 10-08-1995 agreed to regularise them w.e.f. 1-9-95 who have put in 190/240 musters in any of the calendar year after their appointment. That these mazdoors are not promoted since 10 years, hence the petitioner/workmen may be promoted from Category-IV from 1-1-90 and category-V from 1-1-1995. They are ready to work in the mines in underground in Category-IV jobs of Timber Men, Hauler Oozers, Roof Polting Mazdoors etc. Hence award may be passed in favour of them.

It is argued by the Learned Counsel for the respondent that recommendations of the N.C.D.C. was for 2 mines, Sudamdh and Monidih Colleries where mechanised Shaft Sinking has been in existence. That the chapter VIII of paras 18 to 21 are the report of the said committee and not recommendations. They are not applicable to Singareni Colleries where there is no mechanised Shaft Sinking Mine existing. Even in the case of NCDC, Mines out of 29 mines, the report applies to only 2 Mines i.e. Sudamdh and Monidih Colleries. So the contention that the service conditions existing with the said mines are applicable to the Singareni Colleries is a deliberate attempt to mislead. Further there was no settlement, no agreement. Hence the question of violation does not arise. The petitioner union is not a representative union or a party to such understanding reached between the N.C.D.C. Management and their workers. Thn' the claim was to give them Category-IV on 1-1-1993 and Category-V from 1-4-90 but they amended the claim petition through the deposition of W.W.3 it was proved that promotion to Category-V be given from 1-4-95. The promotion of any employee is the prerogative of the Management and this cannot be questioned by the workers unless they attribute malafides, victimisation and unfair labour practice. No such

motives are attributed except that they have not follow the recommendations of the Central Wage Board in 1967. He relied on 1963 I LLJ page 256 S.C. wherein their Lordships held thus :—

"There could be no doubt that promotions to which industrial employees are entitled normally would be treated as the function of the Management. It must be left to the discretion of the management, to select persons for promotion. On the other hand labour also wants that the claims of employees who are eligible for promotion should be only considered"

It is true that though promotions would normally be part of the management's function, if it appears that in promoting one employee in preference to another, the management has been actuated malicious considerations or that failure to promote one eligible persons amounts to unfair labour practice would be a different matter. But in absence of malafides, normally it must be left to the discretion of the Management, to see which of the employee should be promoted at a given time subject to formula stated supra.

He also relied on 1966 I I.J. S.C. Page 402 "Brooke Bond (India) (Private), Ltd., and their workmen wherein their Lordships held thus :

"The Tribunal recognised that normally the question of promotion was a management function and had to be left mainly to the discretion of the management which had to make a choice from among the employee for promotion. But it was of the view that in a proper case the workmen had a right to demand relief when just claims of senior employees were overlooked by the Management".

He also relied on 1960 LLJ S.C. page 272 in "Vishnu Sugar Mills Ltd., and Their workmen" wherein it is held thus :—

"If a higher post is created in any department of a business on account of increase in the work in the department and a new man is appointed to it, even the senior most workmen working in such department he got no right to claim promotion to it".

He also relied on 1974 Lab I.C., S.C. page 128 wherein their Lordships held thus :—

"Ordinarily promotion of a workman from a lower grade to a higher grade is a managerial function and in the absence of a finding that the refusal of the Management to place a workman in the higher grade was on account of his Trade Union activities or any unfair labour practice, the Labour C could not arrogate to itself the promotional function".

He also relied on 1965 II LLJ S.C. Page 175 in "All India Reserve Bank Employees Association Vs. Reserve Bank of India" wherein it is held thus :—

"In the instant case the question of promotion of employees was governed by the regulations framed by the Reserve Bank of India. The relevant regulations made it clear that promotion is a matter of some discretion and seniority plays a small part in it. Seniority and merit should ordinarily both have a part in promotion to higher ranks and seniority and merit should temper each other".

He also relied in 1956 I LLJ High Court, Madras page 222 in "Radhakrishna Mills (Pollachi), Ltd., and State of Madras and Others" wherein it was held thus :—

"The validity of an order of reference is open to examination by the Court under Art. 226 of the Constitution to decide whether the Industrial Tribunal had jurisdiction".

He submits that actually the Government had no jurisdiction to refer the dispute. He submits that in the instant case of all these petitioners here was no discrimination used by the Management in giving promotion to the juniors or any other person ignoring the claim of the petitioners. The petitioners could not be promoted from Category-I to Category-IV for the simple reasons that there were no vacancies. Ex. M-2 is the report of the Industrial Engineering Department according to which there are no vacancies of Shaft Sinking Mazdoors Category-IV/Category-V in the Shaft Sinking unit where the petitioners are working. On the contrary there are 2 Surplus Shaft Sinking Mazdoors in the Unit in Category-IV. Nowhere in the Industrial history all members in the unit or branch are given the same category and designation. When WW-1 to 3 were questioned in the cross-examination, they admitted that they are working as General Mazdoors and that the seniors in the Shaft Sinking unit are working as Shaft Sinking Mazdoors Category-IV. They also admitted that Seniors are doing skilled jobs while juniors are doing unskilled Jobs. MW-1 to 3 categorically deposed that the General Mazdoors are not performing the skilled and that they are doing the unskilled jobs in Shaft Sinking Unit. Promotion is not a matter of right, it depends on several factors like availability of vacancies suitability for promotion, acquiring experience in the concerned job etc. when the petitioners do not fulfil the conditions i.e., availability of vacancies, the question of suitability for the post, experience in the concerned job are not relevant. The promotion in the Shaft Sinking Unit are unit-wise. That the discretion has to be left to the employer so this Tribunal has no power to come to their rescue, unless there is unfair Labour Practice or Victimation can all the people in the Shaft Sinking Unit be placed in the same category. Obviously not, it is ridiculous. Take an hypothetical question that in an office all the employees are manager then how can the work go on. This Tribunal has to confine itself to the pleadings and issue arising therefrom. In this case the petitioners have sought to make out a case that if there are no vacancies in Category-IV in the Shaft Sinking Unit, they may be offered Category-IV jobs of Timbermen. This alternative suggestions cannot be acceded to as it is not in the purview of the Hon'ble Tribunal. The Tribunal has to see the schedule of reference and whether the petitioners are given relief in the frame work of the reference. Actually what happened before the conciliation Officer was that they agreed to settle the dispute mutually. Now it is being tried to show that the Management agreed to promote the petitioners from 1-1-90 notionally which is wrong. Once this Tribunal held that it is having jurisdiction on the preliminary issue raised by the respondent the respondent yielded to the jurisdiction and did not show any dis-obedience. Mentioning of something which happened in 1982 has no relevancy. It is admitted by the WW-1 that he was appointed as a Badli Coal Filler initially and on 30-9-1989 he was regularised as Coal filler and the Joint Representation made by the 14 petitioners on 2-2-90 for promoting them as General Mazdoor. They were posted as General Mazdoor Category-I on 23-3-90. Hence how can they ask for Category-IV from 1-1-90 on which date they were not even General Mazdoors Category-I. The reference to other mines pertaining to Godavarikhani area has no relevance as promotion is mine wise unit wise or at the most area wise. W.W.1 admitted that on a Joint representation dated 2-2-90 they were posted as General Mazdoors. He also admitted that the promotion from Category-I to Category-IV would depend upon vacancies. That the totality of W.W.1 evidence is more favourable to the respondent's than to the petitioners. Even W.W.2 admitted in the Cross-examination that not only S.S. M's but also General Mazdoors are working. He also admitted that there are senior experience workers and Junior inexperienced workers. W.W.3 also admitted the same in the Cross-examination. That the 14,000 Badli worker were regularised under the memorandum of settlement U/s 12(3) of the I.D. Act. Hence i.e., irrelevant to the facts of the case. Petitioners are not entitled to amend the claim statement. Therefore the prayer should be rejected, they are not entitled to choose alternative jobs in Category-IV and such

suggestions are beyond the scope of the reference. However the workmen/petitioners have got a right to represent to the respondent management if they so choose to go back to their substantive posts viz. coal fillers and in such a case their cases will be considered on merits basing on availability of vacancies. Hence the reference may be ordered in favour of the Respondent.

It may be noted that there is no denying of the fact that these petitioners were appointed as Badili coal fillers and on their joint representation for posting them as General Mazdoors they were posted as General Mazdoors Category-I on 23-3-1990 vide Ex. W1. Similarly Ex. W3 is another letter that 5 of the Mazdoors would be treated as General Mazdoors C-I from 01-07-1990. They were on probation for 3 months so obviously they are asking for promoting them to category-IV within 3 months i.e., 1-1-1990 appears prima facie wrong. How can they promoted from 1-1-90 when they had not even joined as General Mazdoors and not even completed the probation which according to Ex. W1 is for a period of 3 months. It may be further noticed that these petitioners did not complain of favouritism they did not attribute any malafides and say that their juniors have been promoted and they have been overlooked. Their only contention is that in other mines wherein vide Ex. W4 they were appointed as Shaft Sinking Mazdoors and confirmed as such. W.W.2 had deposed that he got Category-IV wages after working in Category-I for three years and after completion of 5 years in Category-IV he was promoted to Category-5. W.W.3 had deposed that the Mazdoors who completed 3 years of service in Category-I were promoted to Category-4. Ex. W9 is the office order promoting Gundamani Yadagiri General Mazdoor from Category-I to Category-IV. Further there is no problem so far as from Category-IV to Category-V is concerned because as per Ex. W4 Memorandum of settlement wherein it is agreed that those who have completed 5 years service in Category-IV will be placed in Category-V as per settlement dated 29-01-1981. Now the big question is can they be promoted from Category-I to Category-IV because according to the Management they have not discriminated them by promoting their juniors and that there are no vacancies in R.K.I. Incline at Category-IV, hence how can they promote them to category-IV and if all become category-IV and category-V Mazdoors then who will do the other unskilled work, that is the contention of the Management. Whereas the case of the Mazdoors is that if there are no vacancies in Shaft Sinking they may be posted elsewhere. As per Ex. W12, 10 persons have been tried to be accommodated on Roof Bolting work. W.W.2 in the cross-examination admitted that due to lack of vacancies in Shaft Sinking, Category-I Mazdoors are given opportunity to choose to go on production side where opportunities will be more, and their promotion will be considered as per their seniority and for regular vacancies. The Management contends that Ex. W12 pertains to Ramagundam Area and has no relevance to the petitioners case for promotion. That such offer was made when three vacancies arose at M.V.K. 3 Incline in the year 1991 still the General Mazdoors refused and demanded that all the 14 should be promoted as Shaft Sinking Mazdoors Category-IV. No doubt promotion is a managerial function and when no malafides are alleged and no juniors are promoted generally the Tribunals will not interfere. But here it is denied because there were no opportunities for promoting them as Shaft Sinking Mazdoors and according to the arguments advanced by the Learned Council for the petitioner that General Mazdoors after working for 3 years are to be promoted to Category-IV. Here we find as per Ex. W2 some 10 Mazdoors have been appointed on 23-3-1990 no doubt retrospectively. But actually they started work in 1990 and some of the Mazdoors have been treated as General Mazdoors from 1-7-1990 and their probation commences from 1-7-90 hence in order to avoid confusion of dates these mazdoors who were working since 1990 the date of commencement of this work can be taken as 1-7-90. No doubt they claim that within 3 months they should be promoted to Category-IV but on the said date they were not at all working as General Mazdoors Category-I. It is admitted by W.W.1 by an office order dated 23-3-90 that they were treated as General Mazdoors w.e.f. 13-9-1989 similarly none of the mazdoors mentioned in Ex. W3 have deposed that they worked in the mines before 25-3-90. Even W.W.1 deposed that there is no proof that between 30-9-1989 to 23-3-1990 he worked in Shaft Sinking. But anyway they have been paid wages of Category-I Mazdoor. So in order to avoid any confusion and as all these 14 Workmen wanted

to have promotion at a time, when three of them were offered they refused promotion. Although they asked at the beginning that they should be promoted after completion of three months but in the questions put to M.W.2 it is after completion of 3 years that the General Mazdoors are promoted as Shaft Sinking Mazdoors in Category-IV so they themselves agreed that 3 years is the minimum period for being promoted to Category-IV. No doubt Ex. W12 according to M.W.3 pertains to Ramagundam area and has no relevance to the petitioners promotion at R.K.I. Incline. That under the Demand No. 2 that 10 persons will be taken and paid appropriate acting allowance Category-IV and that AIR Shaft Workers who have completed 5 years i.e., in Demand No. 1 in Category-IV will be placed in Category-V. That 1991 agreement is filed by the Management Ex. M4 wherein also it is stated that Shaft Sinking Mazdoors in Category-IV employed in Shaft Sinking will be placed in Category-V on completion of 3 years in Category-IV from 1-1-1991. If there are no vacancies in the Shaft Sinking they can be taken in production side and infact there is an agreement Ex. W12 no doubt which is of Ramagundam but still the same almost holds good. Hence I hold that these petitioners are entitled for promotion to Category-IV Mazdoors from 1-7-93 and Category IV from 1-7-1998. The promotion from Category-IV to Category-V will of course depend on their satisfactory completion of work and performance as Category-IV Mazdoors and if there is no vacancy in Category-IV in the Shift Sinking Dept., they may be shifted to some other category IV post in the Production Dept., of any other department. The Petitioners are entitled to Category-IV wages from 1-7-1993.

In the result the reference is answered as follows :—That the action of the Management in denial to Promote S/Shri A. Narasaiah, Seeramula Rajalingu, Ch. Sammaiah, Pothula Venkataswamy, A. Narasaiah, Ippa Bapu, Abdul Hafeez, Jana Bhoomaih, Agidi Banalath, Madam Rayonmallu, Denu Venkatesham, Ade Rajender, Asspalli Ramachander, Konati Sambaih, General Mazdoor Category-I to the post of Shaft Sinking Mazdoor Category IV w.e.f. 1-1-1990 and to place them in Cadre-V w.e.f. 1-4-1990 in violation of Cadre Scheme recommended by the Central Wage Board for Coal Mining Industries, is legal and justified. However, the workmen are entitled for promotion from Category-I to Category-IV w.e.f. 1-7-93 and if there are no vacancies they may be transferred to any other mines or to the production side or any other place in Singareni Collieries and they are also entitled for promotion from Category-IV to Category-V from 1-7-1998 subject to their satisfactorily performing their duties in Category-IV they are entitled for consequential benefits from 1-7-1993.

Dictated to the Stenographer, transcribed by her, corrected by me given under my hand and Seal of this Tribunal on this the 13th March, 1997.

E. ISMAIL, Chairman

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For workman/Petitioner :—

W.W. 1 : Shri A. Narasayya.

W.W. 2 : Shri Ch. Madanayya.

M.W. 3 : Shri Y. Grottaiah.

For Management/Respondent :—

M.W. 1 : Shri P.A.V.V.S. Sharma.

M.W. 2 : Shri Ch. Venkateswara Rao.

M.W. 3 : Shri B. Bhanu Prasad.

DOCUMENTS MARKED

For Workmen/Petitioner :—

Ex. W-1 : 23-03-1990—Office Order of G. M.
(P) Bellampally.

- Ex. W-2 :** 27-03-1990—Office order of Supdt.,
of Mines, M.V.K., No. 3 Inq.,
too 1990, dated 14-03-1990.
- Ex. W-3 :** 25-03-1991—Xerox copy of an office
order of S.O.M. M.V.K. 3 Incl.
- Ex. W-4 :** 19-04-1983—Xerox copy of an office
order of Mr. David, Chief Mining Engineer,
Bellampalli Division-II:
- Ex. W-5 :** 03-01-1990—Xerox copy of an Office
order of Agent, M.V.K. Mines.
- Ex. W-6 :** 20-09-1991—Unions letter to Chief
General Manager, Bellampalli with a list
of workers.
- Ex. W-7 :** 30-09-1993—Failure Report.
- Ex. W-8 :** 30-09-1993—Xerox copy extract
from Central Wage Board Recommendations
for Coal Mining Industry, Volume-I.
- Ex. W-9 :** 29-04-1979—Xerox copy of an office
order by Collethes Manager G.D.K. 9,
Incline to Gundamani Yadagiri General
Mazdoor Cat. I Promoting as Shaft Sink-
ing of Mazdoor Category IV Wages
01-06-1979.
- Ex. W-10 :** 29-04-1979—Xerox copy of an
office order by Collethes Manager, G.D.K.
9, Incline to Shri Martha Rajesham Gen-
eral Mazdoor Category I, Promoting as
Shaft Sinking Mazdoor Category-IV Wages
w.e.f. 1-6-1979.
- Ex. W-11 :** 05-09-1987—Xerox copy of an
office order of General Manager, R.G.I.
Promoting 6 Mazdoors of Catercory-I as
Shaft Sinking Mazdoor Category-IV Wages
w.e.f. 01-09-1987.
- Ex. W-12 :** 06-01-1995—Xerox copy of Min-
utes of Conciliation proceedings.

For Management/Respondent

- Ex. M-1 :** Xerox copy extract of Volume-I of
the report of the Central Wage Board for
the Coal Mining Industry.
- Ex. M-2 :** 10-09-1993—Xerox copy of the
Industrial Engineering Man power require-
ment report for Shaft Sinking unit at R.K.-
I (A) Inclite.
- Ex. M-3 :** Xerox copy of the statement con-
taining the Particulars of officiating act-
ing General Mazdoors.
- Ex. M-4 :** 29-01-1981—Xerox copy of the Me-
morandum of settlement.
- Ex. M-5 :** Shaft Sinking Sketch.
- Ex. M-6 :** Annual report and
accounts for the year 1994-95.

नई दिल्ली, 14 मई, 1997

संख्या अ. 154 वा. श्रेणीकारक विवरण, अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार द्वासा सी सी एल के प्रबन्धता के संबंध
प्रश्नों के लिए उनके लिए एक विवरण की घोषणा की गयी। इसके अनुच्छेद में
निम्नलिखित विवरण में श्रेणीकारक विवरण, अधिकारण,
विवरण की प्रक्रिया एवं विवरण करती है, जो केन्द्रीय
सरकार द्वासा 12-5-97 को प्राप्त हुआ था।

New Delhi, the 14th May, 1997

S. O. 1545.—In pursuance of Section 17 of the
Industrial Dispute Act, 1947 (14 of 1947), the Central Gov-
ernment hereby publishes the Award of the Indus-
trial Tribunal, Bhubaneswar as shown in the An-
nexeure in the industrial dispute between the em-
ployers in relation to the management of Ms. C.C.
Ltd. and their workmen, which was received by
the Central Government on the 12th May, 1997.

[No. L-19011/25/84-D.IV(B)]
B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT

Sri. M. R. Behera, O.S.J.S. (Sr. Branch), Pres-
iding Officer, Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute case No. 6 of 1985 (Central)
Dated, Bhubaneswar, the 26th April, 1997

BETWEEN

The Management of Ms. Central Coalfields
Limited, Talcher, District Dhenkanal.
First Party-management.

AND
Their Workmen represented through Talcher
Coalmines Employees' Union, Talcher,
District, Dhenkanal.

Second Party-
workmen.

APPEARANCES
Sri. S. P. Gupta, Dy. Personnel Manager—
For the First Party-management.
Sh. A. K. Ray, General Secretary of the
Union—For the Second Party-workmen.

AWARD

The Government of India, in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-19011(25)84-D.IV(B) dated 20th May, 1985 :—

“Whether the action of the management of M/s. Central Coalfields Limited, Talcher in retrenching S/Shri N. C. Pradhan and 97 others whose names are given below with effect from 25th September, 1981 is legal and justified? If not, to what relief the workmen are entitled?”

Sl. No. Name of the Workman

1. Nimai Charan Pradhan
2. Gobinda Pradhan
3. Bijaya Behera
4. Ekadusia Swain
5. Chhabibi Garnaik
6. Raghu Maharana
7. Sadananda Moharana
8. S. N. Biswal
9. Nrusingha Behera
10. Duryodhan Behera
11. Kamar Pradhan
12. Birabar Bhukta
13. Natha Behera
14. Suresh Sahoo
15. Kamar Bhukta
16. Prashna Kumar Swain
17. Sansar Behera
18. Kutartha Behera
19. Udaynath Pradhan
20. Jiginath Bisoi
21. Sukadev Sahoo
22. Purna Chandra Behera
23. N. P. Rout
24. K. C. Naik
25. Basant Kumar Naik
26. Nilamani Naik
27. Duryodhan Behera (B)
28. Sanatan Gope
29. Gangaram Sinku
30. Surendra Pingua
31. Parsuram Gope
32. Dhusan Pradhan

33. Ananta Pradhan
34. Dasarathi Sahu
35. Sarat Ch. Sahoo
36. Kishore Sahu
37. Purna Behera
38. Bauri Behera
39. Balakrushna Swain
40. Paya Behera
41. Girish Barik
42. Mahendra Gope
43. Prafulla Barik
44. Basanta Kumar Behera
45. Kumar Sahoo
46. Balavva Sahoo
47. Sarat Ch. Patnaik
48. Sudhakar Naik
49. Panchanan Naik
50. Prahallad Naik
51. Sudarsan Gope
52. Ghujhia Majhi
53. Gopal Sahoo
54. Duryodhan Behera
55. Rabi Chandra Sahoo
56. Dinabandhu Sahoo
57. Pramod Sahoo
58. Srinibash Behera
59. Karuna Pradhan
60. Ratana Pradhan
61. Trilochan Sahoo
62. Rabi Lenka
63. Ananta Maharana
64. Banchha Nayak
65. Ramesh Biswal
66. Mukadhar Singh
67. Kasinath Biswal
68. Chingudi Naik
69. Basanta Naik
70. Bhaskar Pradhan
71. Ananda Maharana
72. Ramesh Sahoo
73. Tikan Sahoo
74. Banamali Behera
75. Gangadhar Sahoo
76. Sarat Chandra Patnaik
77. Srinibash Behera
78. Antaryami Sahu

Sl. No. Name of the workmen

79. Narayan Dash
80. Dibakar Dehury
81. Manu Sahoo
82. Dharani Naik
83. Gadi Prusty
84. Sridhar Ghatia
85. Keshaba Naik
86. Ramachandra Naik
87. Bipin Sahoo
88. Satyananda Gadanayak
89. K. Mini
90. Prafulla Kumar Mohanty
91. Keshab Ch. Nayak
92. Kailash Swain
93. Suresh Ch. Sahoo
94. Golakha Nayak
95. Laxmidhar Pradhan
96. Ratana Pradhan
97. Kusa Dash
98. Baribandhu Das.

2. The second party—union has filed the claim statement on the averment that:

The workmen were recruited by M/s. Central Coalfields Ltd. in the year 1979. They worked under M/s. Central Coalfields Ltd. for construction of the Cross Country Conveyor Belt till 25th September, 1981 on which date the services of the workmen were terminated without notice which amounts to retrenchment. The workmen were not paid their retrenchment compensation. The workmen were not aware that their services are being terminated. The workmen have not been paid a month's wage in lieu of service of prior notice, inter alia, the first party-management has not observed the mandatory provisions of Sec. 25F of the Industrial Disputes Act but avoided the responsibility by putting forth the claim that the workmen have been recruited by M/s. R. K. Construction.

The workmen not having been paid their dues, the workmen are required to be re-appointed with back wages under the Central Coalfields Ltd., Talcher.

3. The first party-management filed their written statement on the averment that:

M/s. R. K. Construction, Talcher supplied the labour for construction of the Cross Country Link Conveyor to carry coal from Jagannath Colliery to Talcher Thermal Power Station. The construction work commenced from 25th November, 1979 till the end of September, 1991. There do not exist any employer and employee relationship between the second party-workmen and the first party-management.

A tripartite settlement was signed between the parties on 16th January, 1982 enabling the workmen to lodge claim against M/s. R. K. Construction. On 3rd May, 1983 the General Secretary of Talcher Mazdoor Sabha intimated to the management that M/s. R. K. Construction had already paid the necessary dues of the workmen, therefore, on 14th June, 1983 the first party-management accorded sanction for release of security deposit of M/s. R. K. Construction. The first party-management simply supervised the construction work of the Cross Country Link Conveyor. M/s. R. K. Construction is responsible for implementation of the Labour laws.

M/s. R. K. Construction has been made a party in this case, but did not join.

4. On the rival claims, the following issues have been framed:—

ISSUES

1. Whether the reference is maintainable?
2. (a) Whether there exists relationship of employer and employee between the management of C.C.L. and the workmen?
(b) Whether the members of the second party are the employees of M/s. R. K. Construction?
3. Whether the workmen have been retrenched from their services and whether the retrenchment, if any, is legal and/or justified?
4. To what relief, the workmen are entitled to?
5. If the management had undertaken the work (disputed) which was a distinct one and separate from the usual work of the main undertaking?
6. If the project (disputed) was itself an 'undertaking' and for its completion necessary office was founded and on completion of the project the office was presumed to have been disbanded?

Issue Nos. 5 & 6 have been framed for the direction in O.J.C. No. 3274 of 1990.

5. The disposal of the case has undergone a chequered career. The Hon'ble High Court of Orissa in seisin of the writ jurisdiction in O.J.C. No. 3274 of 1990 set aside the Award passed on 26th June, 1990 and remitted the case to decide if the Cross Country Link Conveyor was a separate undertaking of the first party-management and other allied matters. It is preferable to quote the operative portion of the said direction passed in O.J.C. No. 3274 of 1990 :

"xx xx we are of the view that the matter should be sent back on remand to the Tribunal for the specific consideration as to whether the management had undertaken the work which was a distinct one and separate from the usual work of the main undertaking. The Tribunal has to consider whether the project itself was an undertaking and for its completion necessary office was founded and on completion of the project the office was presumed to have been disbanded. For this limited purpose we would like to remand the case to the Tribunal and permit the parties to adduce further evidence on this specific point alone. With regard to the other findings, we do not differ from the Tribunal. If as per the ratio of the Judgment of the Supreme Court in AIR 1973 SC 878 (supra) the employer is able to prove the necessary ingredients, the case would be decided by applying the principles of section 25-FFF of the Industrial Disputes Act. In the event it is found otherwise, the conclusion of the Tribunal that there was illegal retrenchment and the workmen were entitled to be reinstated with back wages, is to be reiterated and necessary decision will follow.

35. For the aforesaid reasons, we allow the writ application, set aside the award of the Tribunal and remand the case to the Tribunal for the limited purpose of coming to the conclusion as indicated above by giving opportunity to the parties to adduce evidence again. Such evidence will be considered alongwith the evidence already on record and the matter shall be disposed of within four months of communication of the writ xx xx."

6. The second party-union has placed reliance on Ext. 1, a minutes of discussion between the Central Coalfields Ltd., Talcher and Talcher Coal Mines Employees' Union held on 13th July, 1984. On perusal of Ext. 1, it is found mention that the representative of the management of Central Coalfields Ltd. stated—A Cross Country Conveyor Belt at Jagannath Colliery to Talcher Thermal Power

Station Link Conveyor was executed by the Central Coalfields Ltd. in which labourers were supplied through a labour supply contractor. Approximately 98 workers were engaged for completion of that work. The construction of conveyor work was started in November, 1979 and was completed with the same set of workers in September, 1981 and no other set of workers were engaged at the plete the said work. This factual aspect has been reiterated by the management although. In para-7 of this minutes of discussion, Ext. 1, it is found mention that the General Secretary of the union expressed his view to engage a particular set of workers with different labour supply contractors who are at present executing different nature of work in different sections. At this, the representative of the management expressed his inability to ensure engagement of this particular set of workers with any contractor as these particular set of workers were working with a particular contractor which resort violence in case they were removed and this set of workers will be taken through the existing contractor. Moreover, the contractor has his own option and choice to choose his own workers as the management has no say on this issue.

On appreciating para-7 quoted above, the second party-union seemed to have taken a shifting stand, in as much as, in the cross-examination of M.W. No. 8 it has been suggested that the Cross Country Transport System through conveyor belt is a continuous process, although in the pleading and throughout the evidence the second party union have consistently pleaded that the construction of the Conveyor Belt was undertaken from November, 1979 and was completed in September, 1981. Naturally, the new introduction of fact at the belated stage that the work of Cross Country Transport System is a continuous process cannot be accepted to be the true version on behalf of the second party-union. Facts remain that the construction work of the Cross Country Conveyor Belt stated from November, 1979 and was completed in September, 1981. Ext. 1 originated on 13th July, 1984.

Consistent to para-5 of the rejoinder filed on 28th August, 1985 by the first party-management Ext. C is the agreement in a stamp paper between the first party-management and M/s. R. K. Construction, Talcher, Ext. C originated for supply of labour for construction of the Cross Country Link Conveyor from Jagannath Colliery C.H.P. to Talcher Thermal Power Station transformer point. Ext. E is a letter of request from M/s. R. K. Construction to the first party-management to refund the security money kept in deposit for supply of labour.

W.W. No. 1 has testified that the workmen working as Chowkidar and other category of labourers were the employees with effect from 25th November, 1979 to 25th September, 1981. Same

is the evidence of all the workmen examined on behalf of the second party-union. Further, W.W. Nos. 1, 2 and 3 have said that the first party-management was supervising the construction work of the Cross Country Conveyor Belt through its Officers. The witnesses cited on behalf of the management, namely, the Senior Executive Engineer, Foreman, Work Supervisor, Deputy General Manager-cum-Area Planning Officer, Personnel Officer of Jagannath Colliery and the Area Finance Manager, Talcher have testified that the Cross Country Transport System through the Conveyor Belt was a project constructed by the Central Coalfields Ltd. for Talcher Thermal Power Station since the Talcher Thermal Power Station was not aware of the technical know-how of the project. From the evidence on record, it can be said that M/s. R. K. Construction might have supplied the labourers but the Cross Country Transport System of the Conveyor Belt was constructed by the first party-management on behalf of the Talcher Thermal Power Station.

W.W. No. 1 has said that Loknath Satpathy was the Project Officer. W.W. No. 2 has said that Sukumar Sahu, Executive Engineer, Central Coalfields Ltd. and Loknath Satpathy, Project Officer were supervising the work. W.W. No. 3 has said that there was no office for the Cross Country Transport System except an abandoned thatched house. On this context, the existence of thatched house signifies that the Cross Country Transport System Project had a separate structure for use and occupation of the supervising staff, otherwise there is no fancy of construction of such a shed near the Cross Country Transport System.

7. Consistent to the pleadings advanced in para 5, (rejoinder of the first party-management), the amount involved in the Scheme Project was also paid by the first party-management. Further, MW Nos. 8, 9 and 10 have said, so also, it is revealed from Ext. FF that after completion of the project of the Cross Country Conveyor Belt, the same was handed over to the Talcher Thermal Power Station. In the absence of any contradictory facts elicited, much less proved, it can be said that the first party-management had undertaken the construction of the Cross Country Conveyor Belt. M/s. R. K. Construction was a nominal agent of the first party-management to the tune of supply of labourers unconcerned with any other liability concerning the labourers. On the materials on record the first party-management was in-charge of several productive units in Dera, Deulbera, Handibua, South Balanda, Jagannath and Nandira inclusive of the presently disputed project i.e., Cross Country Conveyor Belt. It has not been challenged by the second party-union or has not been contradicted by placing any other facts that after completion of the construction of Cross Country Conveyor Belt, the staffs of the first party-management who were deputed to work under the erstwhile pro-

ject for construction of the Cross Country Conveyor Belt have not been withdrawn and transferred to different units of the first party-management. All these bundle of facts affirmatively go to show that, the Cross Country Conveyor Belt constructed by the first party-management was a distinct and separate establishment of the first party-management and the Scheme Project of Cross Country Conveyor Belt was closed after its completion in the end of September, 1981.

8. Exts. G. & H., letters addressed to the first party-management by Talcher Mazdoor Sabha is quite irrelevant in absence of the examination of the General Secretary of the said Mazdoor Sabha, the author of the said letters. Besides, on a plain construction of Exts. G. & H. that the first party-management was the pay master of the Project cannot be said to be a nullity. Exts. G. & H. are irrelevant documents. Further, Exts. G. & H. cannot be said to be of any help to the first party-management to set at naught the liability of the first party-management that the Scheme Project of the Cross Country Conveyor Belt was not an establishment or undertaking of the first party-management.

9. On the aforesaid analysis of the materials on record, a finding can be bestowed that the members of the second party union were the employees of the first party-management though the labourers might have been drafted on the endeavour of M/s. R. K. Construction, a labour contractor.

10. There is no material on record that any of the members of the second party-union suffered intermittent breaks during continuance of their service while the Cross Country Conveyor Belt Project was under construction till it was completed. The first party-management has equally failed to prove that prior notice ahead of a month from the date of retrenchment was served on any of the members of the second party-union, or that any of the members of the second party-union was paid a month's wage in lieu of a months notice. But however, both the parties have admitted that the workmen of the second party-union were engaged from 25th November, 1979 till September, 1981. Though the parties have not specifically pleaded the date of completion of the work, legally it can be assumed, that September, 1981 means, 30th September, 1981. Therefore, there is no hesitation for this Tribunal to hold that the workmen of the first party-management had been engaged for one year and ten months for the completion of the Cross Country Conveyor Belt.

11. Hon'ble Courts have consistently said that the Industrial Disputes Act is not an exhaustive one. Therefore, on a plain construction of the codal provisions envisaged in Section 25-FFF of the Industrial Disputes Act, more particularly to the words "any undertaking" set up for construction of building, bridges, canals, dairies or other construction work is closed down on account of com-

pletion of the work within two years from the date on which the undertaking had been set up, no workman employed therein shall be entitled to any compensation under Clause (b) of Section 25-F" the members of the second party-union have no case to get any retrenchment compensation as envisaged in Section 25-F(b) of the Industrial Disputes Act, but nevertheless, each of the second party-workman is entitled to a month's prior notice showing the cause of their retrenchment or the wage of a month for that notice period as contemplated u/s. 25-F(a) read with Section 25-FFF(2) of the Industrial Disputes Act.

12. It is preferable to quote the enunciation of law of the Hon'ble Appx Court reported in paras 9, 10 and 11 of AIR 1973 SC page 878 (Management of Hindustan Steel Ltd., Appellant Vs. The Workmen and others, Respondents).

"9. In Hari Prasad v. Shiv Shankar Shukla & A. D. Divekar, 1957 SCR 121—(AIR 1957 SC 121) it was held that this section was not intended by the Legislature to be applicable to bona fide closure of business. This decision led to amendment of the Act by the Parliament. In 1957 S. 25-FFF was inserted in order to give benefit of S. 25-F to the retrenched workmen where an undertaking is closed down "for any reason whatsoever". We need not refer to the amendment of S. 25FF because that section does not directly concern us. According to sub-section (2) of S. 25FFF it is quite clear that in case of closure of the categories of undertakings as mentioned therein, no workman employed in those undertakings can claim compensation under Cl. (b) of S. 25F. The language of S. 25FFF(2) is plain and unambiguous. Indeed, the learned counsel for the respondent also did not dispute that if it were to be held in this case that the undertaking had been closed down then Cl. (b) of Section 25F would not be attracted and Sri Naidu would not be entitled to claim relief under that clause. According to Sri Madan Mohan, however, the present was not a case of closure of the undertaking. His submission was that only the work of the Housing Project at Ranchi had been completed. It was argued that unless the entire undertaking of the appellant was closed down S. 25FFF(2) could not apply. This submission is, in our opinion, not acceptable.

10. The word "undertaking" as used in S. 25FFF seems to us to have been used in its ordinary sense connoting thereby any work, enterprise, project or business

undertaking. It is not intended to cover the entire industry or business of the employer as was suggested on behalf of the respondents. Even closure or stoppage of a part of the business or activities of the employer would seem in law to be covered by this sub-section. The question has indeed to be decided on the facts of each case. In the present case the Ranchi Housing Project was clearly a distinct venture undertaken by the appellant and it had a distinct beginning and an end. Separate Office was apparently set up for this venture and on the completion of the project or enterprise that undertaking was closed down. The Tribunal has actually so found. Its conclusion has not been shown to be wrong and we have no hesitation in agreeing with its view. There is no cogent ground for re-opening the Tribunal's conclusion under Article 136 of the Constitution. It is also noteworthy that Shri Naidu had been recruited to the work-charged establishment of the Ranchi Housing Project. In Workmen of the Indian Leaf Tobacco Development Co. Ltd. Vs. Management, (1969) 2 SCR 282—(AIR 1970 SC 860) closure of eight out of 21 depots of the company though not amounting to closure of its entire business was considered to amount to a closure within the contemplation of Section 25-FFF. In Party and Co. Ltd. Vs. P. C. Lal (1969) 2 SCR 1976—(AIR 1970 SC 1834) it was observed that it was within the managerial discretion of an employer to organise and arrange his business in the manner he considers best and that if a bona fide scheme for such re-organisation results in surplusage of employees, no employer is expected to carry on the burden of such economic deadweight and retrenchment has to be accepted as inevitable however unfortunate. The reasoning and ratio of these decisions support the appellant's argument.

11. Now, under Section 25-FFF(1) which creates a statutory fiction, all that Shri Naidu was entitled to, was notice and compensation in accordance with the provisions of Section 25-F as if he had been retrenched. Retrenchment notice, Extn 7, dated June, 29, 1968, quite clearly complies with this requirement.

In the fact covered under the citation, Mr. Naidu, the aggrieved workman was served with a retrenchment notice. In the case at hand, there is dearthness of materials, much less produced by the first party-management, that any of the second party-workmen had been issued with any notice or paid with a month's wage in lieu of service of such notice.

12. Exts. A & J series i.e., the attendance sheet purporting to be maintained by M/s. R. K. Construction and appointment orders respectively seems to be irrelevant and extraneous documents for the first party-management in absence of examination of its author. Ext. J series (appointment orders) seems to have originated for providing employment to the persons whose land have been acquired. Consideration of providing appointment being different. Ext. J series is quite irrelevant. Similarly, Ext. EE is unspecific as regards the surname of the persons shown in Ext. EE. Therefore, Ext. EE has lost its credibility.

13. There is no material available in this Tribunal, much less produced, that the Orders dated 11th December, 1990 passed in Misc. case No. 4395 of 1990 arising out of O.J.C. No. 3274 of 1990 have at all been satisfied. Therefore, this Tribunal is of the view that the amount appropriated by the workmen on account of the direction of the Hon'ble Court will be restituted by the present Award.

14. Thus, on the net analysis, the reference together with the direction contained in O.J.C. No. 3274 of 1990 disposed of on 27th April, 1995 by the Hon'ble Court, is answered holding that the Cross Country Conveyor Belt is a distinct and separate undertaking of the first party-management. The undertaking in the name and style of 'Cross Country Conveyor Belt' constructed by the first party-management had a separate thatched house to facilitate the supervising staff of the first party-management to conveniently supervise the progress of the work of the Cross Country Conveyor Belt Project, and, after completion of the Cross Country Belt Project, and, after completion of the Cross Country Conveyor Belt Project work, the entire project was handed over to the Talcher Thermal Power Station by the first party-management. But the span of time consumed in completing the construction work of the Cross Country Conveyor Belt being one year and ten months, by statutory envisagement of Section 25-FFF(2) of the Industrial Disputes Act, the members of the second party-union are not entitled for any retrenchment compensation, but nevertheless each of the named workmen of the reference is entitled to be paid with a month's wage in lieu of notice, the notice of retrenchment not having been served on the named workmen of the reference. But, however, the condition imposed vide order dated 11th December, 1990 in Misc. Case No. 4395 of 1990 arising out of O.J.C. No. 3274 of 1990 is also required to be followed.

15. Thus, the reference is answered and the Award is passed, as aforesaid.

M. R. BEHERA, Presiding Officer

नई विस्ती, 14 मई, 1997

का.आ. 1546 -ओर्डरिंग विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसारण में, केन्द्रीय सरकार इस सौ भी पत्र के प्रबन्धसंबंध के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुदान में विनियिट ओर्डरिंग विवाद में केन्द्रीय सरकार ओर्डरिंग अधिकरण हैदराबाद के पंचायत को प्रतापित करती है, जो केन्द्रीय सरकार को 12-5-97 को प्राप्त हुआ था।

[म. पत-22012/153/95-प्राई आर (सी-II)]

बा.एम. डेश्ट्र, डॉक्युमेंट्स

New Delhi, the 14th May, 1997

S.O. 1546.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workman, which was received by the Central Government on the 12-5-97.

[No. L-22012/153/95-IR (C-II)]
B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL HYDERABAD-II, AT HYDERABAD

PRESENT

Sri H. Ismail, B.Sc., LL.B., Chairman
Dated, 19th April, 1997
I.D. No. 8 of 1996
(Central)

BETWEEN :-

The Vice President,
Singareni Coal Mines Labour.
Union (INTUC), Srirampur. Petitioner.

AND

The General Manager,
S.C.C.L., Srirampur (P) Area,
Srirampur,

Dist. Adilabad, (A.P.). Respondent.

APPEARANCES :-

Sri G. Vidya Sagar, Advocate—for the Petitioner.
Sri K. Srinivasa Murthy, Advocate—for the Respondent.

AWARD

This is a reference u/s. 10(1)(d) of the Industrial Disputes Act, 1947 made by the Government of India, Ministry of Labour vide Ref. No. L-22012/153/95-IR (C-II) dated 1-1-1996 for adjudication of Industrial dispute annexed thereto as follows :-

"Whether the Piece-rate Workers (Coal Fillers) of III Shift of 5-7-93 of RKNT if entitled for full back wages for the whole shift or for proportionate payment basing on units of work carried out in that shift ?

If not, to what relief they are entitled ?

A Claim Statement was filed by the petitioner to the following effect :-

It is submitted by the petitioner union that it is a registered Trade union having been registered under the Trade Unions Act with registration No. 2064. Majority of the workmen working in the Singareni Collieries of P. K. New Technology mines are members. It is submitted that on 5-7-1993 in the 3rd shift after distribution to the piece and time rated workmen, the time rated workers struck down the work protesting against the CISF., personnel attempt to rape a minor girl. Badili Coal fillers and Coal fillers went down the mine and some fillers filled half of the tubs. As the time rated employees struck down the work, the fillers who had gone

down were called to come up. The Manager of the mine convinced the workmen and ultimately the strike was called off by about 3 A.M., and the Fillers went down the mine along with the time rate workers. But due to non-supply of empty tubs they could not fill the tubs even upto 6 A.M., as the coal was not available for filling the tubs. Consequently the fillers who were on piece rated basis were not paid any wages. However, the timerated workers were paid full wages for the 3rd shift. The coal Fillers filled only 29 tubs out of 160 tubs due to shortage of coal and empty tubs. Thus about 120 Coal fillers working in the 3rd shift in R. K. New Technology mine were deprived of wages. The union has made a representation to the Management to pay the fall back wages to the piece rated workers, however there was no meeting point. Thereafter the union has taken up the matter before the Asst. Commissioner of Labour (C) Mancherial vide conciliation applications dated 24-11-1993. Conciliation meeting ended in failure and the Asst. Commissioner of C's letter dated 23-2-1995 sent the failure report to the Government of India which culminated the reference to the Hon'ble Tribunal.

That on the night of 5-7-1993 at about 1.30 A.M., i.e. 6-7-1993 the District Mining Sardar called the piece rated employees to stop the work on the ground that time rated employees have struck down the work protesting against the CISF personnel attempt to rape a minor girl who is the daughter of Sri Drona Bheemaiah. Surface Trammer. After discussion with the Management the time rated workers and coal fillers have gone down the mine by 3.30 A.M. However the non-supply of empty tubs and Coal, the Fillers could not perform any duties. Therefore the coal fillers are entitled for fall back wages.

It is submitted that the fall back wages are being paid whenever there is a shortage of coal or tubs, to the piece rated workers. The Coal fillers could not fill up the tubs only due to shortage of coal and tubs and hence they are entitled for fall backwages. That the Management has paid full wages to the time rated workers on the ground that they worked till the end of shift and whereas in respect of coal fillers and other piece rated workers they were not paid the wages without any reason. Thus the action of the management in not paying the wages to the piece rated workers is discriminatory and unfair. It is submitted that there was no wilful negligence deliberate attempt on the part of the piece rated workers but only due to the strike of the work by the time rated workers. They could not fill and required tubs. Therefore, they are entitled for all backwages for the III shift. That the proportionate payment for the tube filled in does not arise, as there is lapse on the part of the piece rated workers. Hence the action of the management in not paying the fall backwages to the piece rate workers is illegal and arbitrary and the management may be directed to pay the fall backwages fully of III shift on 5-7-1993 of R. K. New Technology to the piece rated workers.

A Counter was filed by the respondent management to the following effect:—

That the respondent is a Public Sector undertaking having coal mines in four districts and it employs more than one lakh employees. The petitioner who signed the Claim Statement is put to strict proof that he is an office bearer of the union and competent to represent this matter in view of the fact that no election took place for petitioners union since last 20 years and so certain persons self styling themselves as union Leaders have chosen to use the old Registered union raising false and frivolous claims with an intention to come into light. Therefore the petitioner union is not to strict proof that majority of the workers working in the company are its members. In RKNT Mine workers work round the clock in three shifts including general shift. In every shift before starting the work they come to the distribution point where work will be distributed by the under managers and other supervisory staff in the Mine. There are three categories of workmen in the mine i.e. monthly rated, daily rated and piece rated. Piece rated workers are called coal fillers and their work is to fill the coal produced in the mine into tubs and the filled tubs are hauled out to surface by mechanical process. They are paid according to number of tubs filled by a coal filler in a shift. They are also entitled for fall back wages in

case the Management fails to show them work even though they are ready and willing to work in situations like power interruption for short periods, insufficient supply of empty tubs, break down of machinery unsafe conditions etc. In case their actual filling is below 81 c.ft. But they are not entitled to all backwages if they fail to fill the coal of 81 c.ft., due to their own fault. For example by leaving the work spot, refusing to work to the allotted place etc.

The third shift is from 11.00 A.M. to 7 A.M. They all came as usual and within 10 minutes they have to go to their respective places for work instead of going for work they struck work and went on lightening strike. On Enquiry Officers came to know that the workmen put on a grievance saying that a CISF constable molested the minor daughter of a workman of RKNT mine near SRP 3 Indore and they demanded that immediate action the CISF Constable be taken. The Officers explained to the workmen that the police is dealing with the matter and that the CISF personnel are not the employees of the company and that the Management would see that proper action will be taken by police and justice done to the girl and her parents. In fact the Colliery Manager and the Assistant Manager of the RKNT Mine along with some workmen went to the police station in order to know the details of the case and the action being taken by the police. They confirmed that the girl was alright and action was being initiated against the culprit. They came back to the Mine and explained the position to the workmen. However the workmen further delayed upto 3.30 A.M. without going into the mine up to 2.30 A.M. At 2.30 A.M. they went down the mine but they did not fill even one tub each. Even though the tubs and coal was made available to them. There was sufficient time to fill the tubs to reach the minimum work load of 81 cft. but they deliberately idled away the time by refusing to lower the loaded tubs onto the trammimg level and take the empty tubs from the trammimg level. That all the time rated workers worked till the shift ended and produced sufficient coal in an hour apart from the coal produced in the previous shift which was lying there. 80 Coal Fillers have attended duty and they filled only 29 tubs. Hence they are not entitled for all backwages. The strike was unwarranted and was not due to the fault of the Management. The allegation that at 1.10 A.M. on 6-7-1993 the District Mining Sardar called the Coal Fillers to stop the work on the ground that the time rated employees have struck down the work protesting against the CISF personnel attempt to rape a minor girl is totally false. Hence they are not entitled for all backwages.

On behalf of the workmen Sri Rajeswara Rao is examined as W.W.1 He deposed that as the time rated employees struck down the work the fillers who had gone down were called to come up but they went back at 3.00 A.M. but due to non-supply of empty tubs and coal they could not fill up the tubs. Hence they are entitled for fall backwages. Ex. W1 is the representation of the Asst. Commissioner of Labour, Mancherial. Ex. W2 is the minutes before him. Ex. W3 is the letter given to the Asst. Commissioner of Labour. Ex. W4 is the failure report.

In the cross-examination he deposed that Time Rated Workers and trammers attended the work on the said day. The work was stopped at 1.30 A.M. up to 1.30 A.M. there was no coal shortage of work. But they did not give any strike notice. The rape of a minor girl is a criminal offence. That the Management supplied only 29 tubs. No one suffered due to the strike except the time rate workers. It is a practice in the Singareni Collieries to stop the workmen from attending their duties and go on strike to settle their demands. He denied that he is deposing falsely.

Sri A. Sudhakar, examined himself as W.W.2. He deposed that as the time rated workers struck down the work the fillers who have gone down to work were called to come up. Due to non-supply of empty tubs and coal they could not fill the tubs upto 8 A.M. Consequently the Fillers who were on piece rate basis were not paid any wages, however the time rated workers were paid full wages for the 3rd shift.

In the cross-examination he deposed that he is not aware when the union is formed. He is not an office bearer but a member since 1990. In Time rated job, production is not linked but for piece rated jobs wage is paid basing on number of tubs filled per day and as per mine average.

The girl who is molested is not related to him. He is not aware that the workers have no right to go on strike with an incident which is no way connected with the company. No employee has protested that July salary is falling short of one day wages. Previous shift excavated coal is also available in the mine, the witness adds that in some places coal is there, they have not given any representation in writing on the same day to the Manager or anyone else that no empties were there, no coal was there. In Ex. W1, W3 and W4 they have not mentioned anywhere that because of coal shortage and no empties though they entered into the mine they could not go any work. The material facts stated in Ex. W2 are correct. It is incorrect to suggest that not a single time rate coal filler joined in the strike. W.W.1 is the Mining Sardar. W.W.1 is personally not aware as to what happened on 5-7-1993 except what they told him. It is incorrect to say that he has filed a false case.

On behalf of the Management Sri Neelakanta Roy, Senior Personnel Officer in Respondent company, examined as M.W.1 He deposed that there are three categories of workmen who still work in the Mine. 1. Monthly rated i.e., Clerks, Overmen, Mining Sardars and Short Firers, 2. Daily rated or Time rated workmen i.e., Hauler Operators, Trammers, General Mazdoors, Temberman etc., 3. Piece Rated Workmen i.e., Coal Fillers and Badli Workers. The coal fillers have fill up the coal produced in the Mine into the tubs. The coal Fillers are entitled for payment of fall backwages if their filling is below the workload of 81 c.f.t. due to no fault on their part. On 5-7-1993 the 3rd shift workers did not work although the incident of alleged molestation of a girl was no way connected with the working of the mine. The Coal Cutters have cut the holes and Blasting was taken place and sufficient coal was produced for filling. The piece rated workmen did not give the balance loads to the trammimg level and not taken the empties for filling. They idled away their time. That as per Munshi's report Ex. M3 at page 19 it clearly shows that 60 tubs were supplied but only 29 tubs were filled hence they are entitled to payment as per Ex. M4. Ex. M5 is details of daily production for 5-7-1993, no case was filed under payment of wages Act. In the cross-examination he deposed that he was not present on 5-7-1993. During the 3rd shift that the time rated workmen discharged their duties, i.e., coal cutters have cut the coal, the Short Firers blasted the working phase and supplied sufficient coal to the Fillers. He denied that they are entitled to fall backwages.

Rajaiah, Under Manager is examined as M.W.2, he deposed that on 5-7-93 he was incharge of the 3rd shift and said that workers came back to work at 3 A.M., and everybody started their work, time rated workmen performed their duties assigned to them but the piece rated workmen have not performed their normal duties on 3rd shift, the coal cutters worked on that day and the production is 100 tons coal.

In the cross-examination he deposed that time rated workmen worked only for 3½ hours but they paid to the time rated workers but did not pay to the piece rated workers.

It is argued by the Learned counsel for the petitioner that on 5-7-1993 in the 3rd shift after distribution of piece and time rated work, the time rated workers struck down the work protesting against the CISF, personnel attempt to rape a minor girl and Badli coal fillers and coal fillers went down to the mine and some fillers filled 1/2 of the tubs were called to come up. Strike was called off by 3 A.M. That due to non-supply of empty tubs even upto 6 A.M. and non-availability of coal they could not fill the tubs, as a result they could fill up only 29 tubs out of 160. Yet the time rated workers were paid full wages whereas coal fillers were not paid wages. That the actual practice in vogue to give them fall backwages, if they are unable to fill the tubs due to shortage of coal or tubs. But in this case discrimination is made by the Management full wages are paid to the time rated workers whereas the coal fillers who worked till the end of the shift were not paid full wages. Hence they may be paid fall backwages and the reference may be answered in their favour.

It is argued by the learned counsel for the respondent that W.W.2 himself admits that previous shift excavated coal was also available in the mine and that they have not

given any representation in writing on the same day to the Manager. Under Manager or/and shift Incharge that there was no coal and no empty (tubs) therefore they could not work. He also admitted that the Manager persuaded and requested them to into the mine and they entered the mine. As per Ex. M3 it is clear that 60 empty tubs were available and only 29 were filled and as they have not worked and gone on illegal strike due to an incident which is in no way connected with them and without strike notice, they are not entitled for any fall backwages. Hence the reference may be answered in favour of the Respondent.

It is an admitted fact that almost all the workers started their work from 3.30 A.M. W.W.2 deposed that for the time rated job, the production is not linked. For piece rated job, wage is paid basing on the number of tubs filled per day and as per mine average. Further he also admitted that W.W.1 is personally not aware as to what happened on 5-7-1993 except what they told him. Further M.W.2 was the incharge of the 3rd shift, he also admitted that even time rated workmen went down in the mine at 3.30 a.m. and they worked for 3½ hours and they paid to time rated workers but did not pay to piece rated workers.

Now, it may be seen that no doubt they paid to time rated workers full wages because even according to W.W.2 it is not linked up with production. But these piece rated workers although they had 3½ hours time to work and as per Ex. M3, 60 empty tubs were available and as per W.W.2 who admitted in the cross examination that previous shift excavated coal is also available in the mine yet they have failed to fill up even the 60 tubs although in all they have to fill 160 tubs. So atleast if they have filled up these 60 tubs in these 3 hours their case could have been considered sympathetically because time rate workers were also paid full wages. But these workers could fill up only 29 tubs and did not fill up even 60 tubs available to them. Their agitation was in no way connected with anything in the collieries and no count apparently some discrimination appears to be there because the time rated workers are paid but the petitioners are not paid but atleast if they had filled up the available 60 tubs instead of 160 there would have been some ease for them. Further they have not even protested immediately stating that they could not work because there are no empty tubs and coal was not available. Infact on the contrary it is admitted by W.W.2 that previous shift excavated coal was available and the Ex. M3 maintained in the regular course of business show that there were 60 empty tubs and there is no reason to disbelieve the same.

Hence, I hold that the petitioners are not entitled for any fall backwages for the simple reason that firstly they did not attend to their duties. Secondly even in the 3½ hours they worked, they have not turned out the sufficient work which they are supposed to do in that 3½ hours i.e., they could have atleast filled up 60 available tubs which also they had not done and filled up only 29 tubs hence they are entitled only for proportionate wages based on the units of work carried out in the shift and not for fall back wages.

Accordingly the reference is answered as follows :—

That the piece-rated workers (Coal Fillers) of IIIrd Shift of 5-7-1993 of RKNT are not entitled for fall back wages for the whole shift but are entitled proportionate wages basing on the units of work carried out in that shift.

Dictated to the Stenographer, transcribed by her, corrected by me given under my hand and Seal of this Tribunal on this the 19th April, 1997.

E. ISMAIL, Chairman

APPENDIX OF EVIDENCE WITNESSES EXAMINED

For Workmen/Petitioner :

WW1—Sri K. Rajeswara Rao,

WW2—Sri A. Sudhakar

For Management/Respondent :

MW1—Sri A. S. R. Nilakanta Ray.

MW2—Sri E. Rajalah.

DOCUMENTS MARKED

For Workmen/Petitioner :

Ex. W1 25-11-93—A representation of Union Vice President to the A.C.L. Mancherial.

Ex. W2 15-2-95—Xerox copy of Minutes of Conciliation meeting. File No. 1/1/94-ALC-MCI.

Ex. W3 28-2-95—Xerox copy of a letter of the Union Vice President addressed to the A.C.L., Mancherial.

Ex. M4 23-3-95—Xerox copy of failure report of the Conciliation Officer.

For Management/Respondent :-

Ex. M1—C—Register.

Ex. M2—E—Register.

Ex. M3—Munshi Report in Page No. 19.

Ex. M4—Pay Register contains computer pay sheets.

Ex. M5—Daily production report copy.

नई दिल्ली, 16 मई, 1997

का. आ. 1547.—ओर्थोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक सी आई के प्रबन्धाता के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुमन्त्रों में निषिष्ट ओर्थोगिक विवाद में केन्द्रीय सरकार ओर्थोगिक अधिकरण, धनबाद नं. 1 के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[सं. एल-22012/8/एफ/94/आई आर (सी-II)]
बी.एम. डेविड, ईस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Dhanbad No. 1, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on 14-5-97.

[No. L-22012/8/F/94-IR(C-II)]
B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d) (2A) of the Industrial Disputes Act, 1947

Reference No. 122 of 1996

PARTIES :

Employers in relation to the management of Food Corporation of India.

AND

Their Workmen.

PRESENT :

Shri Tarkeshwar Prasad, Presiding Officer.

APPEARANCES :

For the Employers : Shri M. L. Banerjee, Authorised Representative.

For the Workmen : Shri V. Kumar, Secretary (Welfare), F.C.I. Executive Staff Union.

STATE : Bihar.

INDUSTRY : Food.

Dated, the 6th May, 1997

AWARD

By Order No. L-22012/8/F/94-I.R. (C-II) dated 11-5-1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management in not regularising and denying the wages and all other benefits equal to regular Class-IV workman w.e.f. the date of employment to Shri Jamuna Das, Casual Worker of Divisional Office, Muzaffarpur is legal and justified. If not, to what relief the concerned workman is entitled to?"

2. The workman and the sponsoring union appeared and filed written statement stating therein that the concerned workman was employed by the management at District Office, FCI, Muzaffarpur in the year 1972 and since then he was working continuously there with full satisfaction of the management. It is also said that to avoid making regularisation of the workman the management has adopted several device by designating and making payment to him though he is performing his duty similar to regular Class-IV workman and on paper sometimes he has been shown as part-time, some time contract basis and sometime payment is made on vouchers, but the fact is that he is performing his duty as full time worker and internal correspondence would show that he was treated as full time and his name was forwarded for regularisation as Class-IV employee but his case was not considered and he was compelled to work which is unfair labour practice. It is also said that as per circular of the management dated 6-5-87 the casual/daily rated workmen who completed 90 days of service on or before 2-5-86 were decided to be regularised as per their qualification against Class-III and 'V' post and good number of casual/daily rated workmen were regularised in the year 1988-89 and were getting full wages of Class-IV workmen, but the concerned workman was left out from such regularisation. It is also said that for Class-IV post qualification is 7th pass except sweeper and for sweepers there is no qualification prescribed except that who can write and read shall be eligible for sweepers. It is also said that the name of the concerned workman was forwarded by the Regional to the Headquarter alongwith other workmen for approval and the Headquarter management approved his appointment/regularisation but due to mistake of the lower management his case was not considered and he was still working as casual and getting meagre wages. It is also said that after regularisation the other workmen are getting Rs. 3500 wages per month besides other benefits whereas the workman was getting Rs. 400 to Rs. 500 per month and no other benefits were given to the workman which is highly unjustified and exploitation of poor workman by the big management. Thereafter industrial dispute was raised before the A.L.C.(C) in the year 1989 and due to rigid attitude of the management the matter could not be conciliated and was referred to the Ministry and this reference has been made. It is said that the workman is entitled to get wages and other benefits of regular Class-IV workman since 1981 as he is performing identical/similar duty of a regular Class-IV workman. It is further said that the management regularised the services of three persons in March, 1994 who were retrenched from service and were junior to the concerned workman, but the case of the concerned workmen is still left untouched. It is also said that all the workmen whose services were regu-

larised in the year 1988-89 were junior to the concerned workman. It was further prayed that award be passed for regularisation and full back wages from the initial date of appointment in 1972 of the concerned with other benefits.

3. Written statement has been filed by the management stating, that said, that the reference is not legally maintainable and there is no employer-employee relationship between the management and the workman and the concerned workman was supplying drinking water in the locality on contract basis and he approached the management and thereafter he was kept on filling pitchers and jars with water on the same contract rate which was given to general public and he was engaged for supplying of water at the rate of 25 paise per jar in the beginning and he did not supply water sometime in 1980 and other person, Yogeshwar Jha began to supply water and was paid at the rate of Rs. 15 per day for doing the same job. It is said that in November 1987 the workman again approached the management for supplying drinking water at District Office, Muzaffarpur and he was quoted the rate of Rs. 22.00 per day for the job carried by him which was revised to Rs. 15 per day from November, 1989. It is said that the concerned workman is still supplying drinking water to many persons in the locality and carrying on different kinds of jobs at the house and in the paddy field and he was not engaged as a part time worker and he never remained under the control, supervision or direction of the management for even limited duration during the period when he supplied drinking water and he was not controlled by the management. It is said that the sponsoring union has claimed his regularisation in Class-IV job and it is said that the Class-IV staff are mostly the watchmen and some Peons in different offices of the management and there was no vacancy in Class-IV post in the establishment at Muzaffarpur and in absence of such vacancy it was not possible to regularise him as Class-IV. It is said that a person carrying contractual job for supplying water for a limited hours cannot be said together a casual or un-rated worker and cannot demand for his regularisation as Class-IV post. It is also said that the management being public sector undertaking it recruits a person whose name is sponsored by the Employment Exchange and after judging his suitability and merit by the Selection Committee he is selected for such Class-IV post and is regularised against permanent post and the workmen who enter into employment through back door method as casual workers, such employment on permanent post is contrary in law. It is also said that the concerned workman was never engaged as casual worker, nor performed duty regularly against vacant post. He was also never engaged as a part-time employee to perform such job being integral part of the management and he was simply water supplier on contract basis and he is still a water supplier and the circular of 6-5-1987 was not applicable in his case and his claim was not justified.

4. By way of rejoinder to the written statement of the workmen the contention of the workman and the sponsoring union is denied specifically and parawise and same is said to be incorrect and denied. It is finally said that the award be passed accordingly.

5. No rejoinder has been given by the workmen.

6. On the basis of the pleadings of the parties, the point for consideration in this case is—

- As to whether or not the action of management in not regularising the workman as Regular Class-IV workman and denying wages and other benefits of regular Class-IV employee to the concerned workman Jamuna Das, is justified ?
- If not, to what relief or reliefs the concerned workman is entitled ?

7. Both the points being inter-linked, are taken together for their consideration.

8. The management has examined MW-1 Narendra Prasad Singh who is Assistant Grade-II in the District Office FCI at Muzaffarpur where he was working from 1973 with interruption in the year 1980-81 and again from 1990 to 1993. He knew the concerned workman who started working in the District Office since 1973 and doing the work of filling up the drinking water pitchers every day on contract basis. He left the work in December, 1985 and again started doing the work since November, 1987 and has been continuing as such till now and he was doing the same work on contract basis. He has further said that the concerned workman used to fill up five pitchers with drinking water and one tub in the lavatory and that drum or tub was 25 litre of water size and it takes from one hour to two hours to fill up the pitchers and the drum with water. He has further said that at Muzaffarpur office in total 40 Class-IV staff are working and at present no vacancy exists in Class-IV service in Muzaffarpur office. He has proved four bills containing signature of the concerned workman are under signature of the then Incharge, District Manager Incharge, marked Exts. M-1 to M-1/3 and has also proved some bills marked Exts. M-1/4 to M-1/1. Another such bills have been proved and marked Exts. M-1/8 to M-1/14. In cross-examination he has said that the concerned workman is working since 1973 and still he was working there and could not say how many casual workers were regularised in the year 1988-89 as per FCI circular. He has not admitted that the District Manager of Muzaffarpur had sent a number of letter to the Headquarter for regularisation of the service of the concerned workmen and payment was made to the workman directly from FCI and there was no contract in between and payment was made to him monthly basis for 18 to 25 days as per his work and he was being paid Rs. 15 per day which has been subsequently increased to Rs. 25/- per day. Documents Ext. M-1 series the concerned workman has been shown as water carrier but in the heading of the bill he has been shown as part-time worker and this part-time work has been noted in red ink by another pen and the bill has been prepared in blue ink pen. He has also admitted that the concerned workman was being paid much less than regular Class-IV employee who was getting Rs. 4000/- per month with other benefits. He has denied that the concerned workman is working from 1972 as Class-IV worker till date. He was earlier posted in Regional office dealing with regularisation of casual employees. He was there in the year 1992 for one year. However, he has denied that the District Manager had written a number of letters from 1987 to 1992 for regularisation of service of the concerned workman and he was concealing the fact. No other witness was examined by the management.

9. Similarly, WW-1, Jamuna Das, is the concerned workman who has stated that he is working in FCI at Muzaffarpur office there. He was working as Watchman and Peon and messenger and also doing miscellaneous work. He was working for full day

from 9 A.M. to 7 P.M. and there was no difference in his work and other regular Class-IV worker. He has denied that he was working on contract basis filling pitchers at 25 paise per pitcher, but he was getting Rs. 375/- per month, and regular Class-IV is getting much more amount and no other benefit was given to him. He has further stated that no provident fund deduction was made from his wages. He filed several representation for regularisation of his service and many casual workers were regularised in the year 1988-89 and he was left out and he is

Class-IX pass, and even casual workers junior to him have been regularised in service. He has denied that he was filling one tub and 5 pitchers only and no any other work was done by him. He was not given any appointment letter by the management and no any other warning or memo or chargesheet was given to him. He has denied that he was working in a Tea Shop and also he was adducing falsely. There is no other witness in this case.

10. Similarly, documents have been filed on behalf of the parties and the management has filed Ext. M-1 series which are original water carrier bills of the workman for different months of the year 1988 and 1989 whereas the workman has filed different documents. Ext. W-1 and W-2 are letters written to the A.L.C.(C) by the union and the management and Ext. W-3 is letter of Regional Office and Ext. W-4 series are letters written by D.M. in the year 1988 and 1989. Similarly Ext. W-5 and W-6 are letters of Regional office and D.M., FCI of the year 1989. Ext. W-7 series are payment vouchers of the year 1988-89, Ext. W-8 is Headquarters circular dated 6-5-1987 and Exts. W-9 and W-9/1 are staff position of Bihar Region as on 30-11-1988 and 30-6-1996 and Ext. W-10 is Office Order dated 22-7-1988.

11. While arguing the case it has been submitted on behalf of the management that the workman was supplying drinking water in pitcher and tub on contractual basis and he was not a casual or daily time-rated worker as claimed, rather he was part-time worker and payment was being made to him as per contractual basis and he can't claim regularisation in service with the management and there was also no relationship of employer and employee between the management and the workman. It is further submitted that from the evidence of MW-1 this fact has been made amply clear that he was working as per contract and payment was made monthly to him vide Sxt. M-1 series. This fact has been noted on the bills in red ink. However, MW-1 has admitted that he was working from 1973 and not from 1972 & worked continuously till 1985 and again came to the management in November, 1987 and entered into for supplying drinking water as above and also supplying water to other people and payment was made to him at the rate of Rs. 15/- per day, so he was never a casual or time-rated worker and there was no question of regularisation to him in view of the circular dated 6-5-1987 because he was not working against any permanent vacancy of such post water carrier and he had never worked as watchman, messenger or sweeper daily and from this

little work done by him he can't claim regularisation either on the plea that he completed 90 days on or before 2-5-1986 as per circular of the management dated 6-5-1987 or on the basis that he had completed more than 240 days of work in 12 calendar months and the action of the management in not regularising the concerned workman is quite justified and the workman is not entitled for any relief as claimed in the form of his regularisation in service by the management whichever the date may be.

21. On the other hand, it has been submitted on behalf of the workman that he is working since 1971 at District office, FCI, Muzaffarpur as casual Class-IV workman and doing the work of messenger/ watchman/sweeper and other miscellaneous work and has completed for more than 240 days in 12 calendar months in almost all the years of long service of about 25 years starting from the year 1972 and has also completed 90 days continuous service with the management on or before 2-5-1986 and as per Headquarter Circular dated 6-5-1987 (Ext. W-8) he ought to have been regularised in service much earlier by the management. But he was left out whereas some other co-workers even junior to him have been regularised in service by the management. In this respect my attention has been drawn to various exhibits filed on behalf of the workman which is letter of the management before A.L.C.(C) where the plea was taken that he was working on contractual basis and payment was made to him accordingly and that he did not cover under the circular of the year 1987 of the management vide Ext. W-2, but from Exts. W-3, W-4 series and W-5 letters given by the District Manager, Sr. Regional Manager, FCI, Muzacarpur and Patna it would appear that the District Manager recommended his case for regularisation in service specifically stated therein that the workman has been working since 1972 and has completed more than 240 days of continuous service and also covered under the Headquarter circular of the year 1987. From Ext. W-6 it would appear that the list of casual labours working in District Office, Muzaffarpur was sent by the District Manager to the Sr. Regional Manager, Patna, where the name of this workman appears in Sl. No. 3 for regularisation in Class-IV, but from Ext. W-10 it would appear that other workmen were regularised in service but this workman was left from such regularisation and in this annexure Ext. W-6 it is clearly mentioned that he has completed more than 240 days continuous service and was engaged by the District Manager, Ranjit Singh. Ext. W-7 series are photo copy of wage bills by which payment was made to the workman in the year 1989 for several months and on these documents part-time contractual work was not noted anywhere by the management. However, it is submitted that Ext. M-1 series are relating to payment for several months of the year 1993 and this appear "contractual/part-time water carrier" has been noted by different person in red ink pen and subsequently in the office of FCI at the time of passing the bill this contractual part time was described in the office of the management of FCI purposely to deprive the workman from

his legal dues and such entries have been made only in the bill in Ext. M-1, M-1/5, M-1/7, M-1/8 and M-1/15 which relate to different period of 1986, 1989 or 1988. No such entry as part-time contractual work has been inserted at the time of preparing the bill or at the time of passing of the bill and from this fact it becomes clear that the entries were made in such Ext. M-1 and M-1/7 in the office of the management knowingly and purposely. As the matter was pending before the A.L.C. from 1992 onwards and thereafter failure of the conciliation it was sent to the Ministry for reference and the reference was received in the Tribunal in the year 1994. From this fact it would appear that such entry "contractual-cum-part-time worker" has been noted intentionally and purposely just to defeat the claim of the workman in the year 1993, but on such bills for previous period 1986, 1988 and 1989 no such entry find place on Ext. M-1/8 to M-1/14. It is also to be noted here that no such contractual paper or agreement paper has been produced by the management to show that he was working on contract or under any agreement or that he was a part-time worker because the bill Ext. M-1 series payment has been made on calculation with whole day and number of working days as per attendance have been added as 24 days, 22 days, 26 days and 25 days in a month. No part-time work has been mentioned in these bills.

13. It is also pointed out that from Ext. W-8 which is aforesaid circular of the Headquarter of the management, it is clear that any casual/daily-rated worker who have completed 90 days on or before 2-5-86 were to be regularised in service against Class-III and IV post. Admittedly, the workman is working from 1972 as per version of the workman and from the year 1973 as per version of the management's witness MW-1 and he worked continuously till 1985 as per admission of MW-1. Naturally it would appear that he had worked many many 90 days and was eligible for the regularisation in service in view of the circular of Headquarter of the management vide Ext. W-8 and there is nothing before the management to deny this claim of the workman nor any such document has been produced in this reference to contradict this contention of the workmen. It is also pointed out that as per evidence of MW-1 the workman left the work for sometime in the year 1985 and again came for work in the year 1987 and he is continuously working till date with the management doing supply of water in the District office at Muzaffarpur and he is being paid meagre amount of Rs. 15 per day in these period of high inflation. It is also admitted that regular Class-IV workman is getting more than Rs. 4000 with other benefits whereas this workman is being paid Rs. 15 which is also clear from the bills Exts. M-1 to M-1/7 in the year 1993 at the rate of little amount of Rs. 15 per day without any other benefit and it is clearly unfair labour practice adopted by the big management like FCI against poor workman who is continuing in service for last 25 years on such meagre payment made by the management and it is being contended on behalf of the management that there was no relationship of employer—employee between them. It is pointed out that this is blatant lie on behalf

of the management and serious exploitation of the workman for so many years together. From Ext. W-10 and W-9 it is clear that a number of vacancies are existing in Class-IV posts in Bihar Region with the FCI management and some other co-workmen have already been regularised in service vide Ext. W-10 but this poor workman has been left out who is working for little amount of Rs. 350 to Rs. 400 per month for so many years.

14. After going through the case record and evidence on behalf of the parties and considering the exhibits and points of arguments put forward on their behalf, I find much force in the plea taken by the workman that he is being exploited severely by the management for so many years and he is still working and getting only Rs. 15 per day whereas regular Class-IV employees are getting more than Rs. 4000 per month with other benefits as bonus, medical allowance and other allowance including LTC. I do not find any merit taken by the management that he was contract part-time workers and admittedly he is working since 1973 and we are now in the year 1997 and for 25 years he is being exploited by the management by paying such a little amount and his service is not being regularised whereas he is entitled for the same in the year 1987-88 itself vide Ext. W-10.

15. In the above circumstances the action of the management in not regularising the service of the concerned workman cannot be justified in any way and the workman is entitled for regularisation in service as Class-IV watchman. So far data of such regularisation is concerned no specific date has been given in the reference, but admittedly he is working in the FCI since 1973 and vide Ext. W-10 some other co-workers have been regularised in service by Office Order dated 22-7-88 and as there are also a number of vacancies exist in the Bihar Region of FCI management, he ought to have been regularised in service from that very date i.e. 22-7-1988 itself with full back wages for the purpose of fixation of his up-to-date wages and for the matter of seniority. However, this reference has been made to the Tribunal in May, 1994 and the management is directed to pay all arrears to the workman after fixation of pay from the year 1988 and pay arrear of wages from 1-5-1994 with full back wages. Accordingly, both the points are decided in favour of the workman.

16. Hence, the award—The action of the management in not regularising and denying the wages and all other benefits equal to regular Class-IV workman w.e.f. the date of employment to Shri Jamuna Das, Casual Worker of Divisional Office Muzaffarpur is not justified. The management is directed to regularise the concerned workman as Class-IV watchman from 22-7-1988 for the purpose of fixation of full back wages and for considering and fixation of seniority and the management is further directed to make payment of arrear full back wages from 1-5-94 onwards within two months from the date of publication of the award in the Gazette of India.

However, there will be no order as to cost.

TARKESHWAR PRASAD, Presiding Officer

नई दिल्ली, 16 मई, 1997

का.आ. 1548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई० सी० एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[सं. एल-22012/49/95-आई आर (सी-II)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E. C. Ltd. and their workman, which was received by the Central Government on the 14-5-1997.

[No. L-22012/49/95-IR(C-II)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL.
REFERENCE NO. 42/96.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

PARTIES :

Employers in relation to the management of Bankola Colliery of M/s. E. C. Ltd..

AND

Their Workman.

APPEARANCES :

For the employer : Sri P. K. Das, Advocate.

For the Workmen : Sri M. Mukherjee, Advocate.

Industry : Coal State : West Bengal.

Dated, the 5th May, 1997

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/49/95-IR-(C.II) dated 26-9-1996.

"Whether the action of the management of Bankola Colliery, Bankola Area of M/s. E.C.L. in not regularising Sh. Shibnath Pandey, Camplamp Madoor as Camplamp Fitter is legal and justified? If not, what relief the concerned workman is entitled to?"

2. The union does not file written Statement of claim.

3. Accordingly 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 16 मई, 1997

का.आ. 1549.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम० सी० सी० एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[सं. एल-22012/236/93-आई आर (सी-II)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workman, which was received by the Central Government on the 14-5-97.

[No. L-22012/236/93-IR(C-II)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD

PRESENT:

Sri V. V. Raghavan, B.A., LL.B., Industrial Tribunal-I.

Dated : 4th day of April, 1997

Industrial Dispute No. 44 of 1993

BETWEEN

The General Secretary, S.C. Employees
Council (INTUC) Bellampalli, P.O.
Adilabad Distt. (AP) 504 251 ...Petitioner

AND

The Chief General Manager,
M/s. S.C. Co. Ltd., Bellampalli PO
Adilabad Distt. (AP)-504 251 . . . Respondent

APPEARANCES :

Sri A. K. Jayaprakash Rao, Advocate—for the Petitioner.

M/s. K. Srinivasa Murthy and G. Sudha, Advocates—For the Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-22012/236/93-IR(C-II) dt. 12-11-1993 made the following reference for adjudication under Section 10(1)(d) and 2A of Industrial Disputes Act, 1947.

"Whether the action of the management in not granting any upgradation relief on completion of 10 years service (from 24-10-76 to 24-10-86) as Ward Boy as per company's cadre scheme while fixing up the basic pay of Sri Bitti Rajaiah as Operation Theatre Assistant on 22-12-86 is legal and justified? If not, to what relief the workman is entitled to?"

2. The General Secretary of the petitioner-union filed a claims statement contending as follows : Bitti Rajaiah a workman was appointed as Ward Boy on 24-10-1976 alongwith others and he has been working in Singareni Collieries Company Hospital at Bellampalli Area. He is entitled for next grade i.e. from Grade 'H' to Grade 'G' on and from 24-10-1986 on completion of 10 years of service in the same post by virtue of upgradation scheme. This Upgradation promotion must be put into force from 25-10-1986 and he was waiting for this promotion in the upgradation scheme. In the meanwhile he was called for test for Operation Theatre Assistant and promoted as Operation Theatre Assistant in Grade 'E' with effect from 1-1-87. His basic pay was fixed from 1-1-87 in Grade 'E' as Rs. 717 in Grade Rs. 625-23-947. The other Ward Boys who were given service linked upgradation after completion of 10 years of service in the same Grade were fixed in Grade 'G' from 1-3-1987 and their basic pay was fixed at Rs. 724 in the Grade Rs. 580-16-804. Sri Bitti Rajaiah should also be given the Basic pay of Rs. 724 in Grade 'G' on completion of 10 years service and then the salary of Grade 'E' should have been fixed. He is paid only the basic pay of Rs. 717 in Grade 'E' whereas his colleagues who did not get promotion to Grade 'E' are getting basic pay of Rs. 724 in Grade 'G' on completion of 10 years of service. Hence Bitti Rajaiah should be fixed one increment higher than his colleagues who were still in lower grade to him, in the promotion post of Theatre Assistant. An award may be passed accordingly.

3. The respondent while admitting the facts of promotion and fixation of scale, filed the Counter

contending as follows : There was a settlement which provides upgradation twice in a year in March and September. So by virtue of settlement Bitti Rajaiah could have got upgradation in March, 1987. In the meantime Sri Bitti Rajaiah was given a double promotion from Grade 'H' to Grade 'E'. So the question of giving upgradation in March, 1987 does not arise. The other Ward Boys were given under Cadre Scheme which is known as Upgradation Scheme. Had he not got promotion as Theatre Assistant, he would have got the upgradation only from 1-3-1987. He is not entitled to any relief.

4. The Secretary of the Union and the workman concerned examined themselves as W.W.1 and W.W.2 and filed Exs. W1 to W8. The Dy. Personnel Manager is examined as M.W.1 and he filed Exs. M1 to M3.

5. The point for consideration is whether the workman Bitti Rajaiah is entitled to the upgraded post and the corresponding scale of pay before his pay as Operation Theatre Assistant is fixed?

6. POINT:—The admitted and proved facts of the case are as follows : Sri Bitti Rajaiah workman concerned in this dispute joined service as a Bedli worker in 1972. He was appointed as Ward Boy in the Hospital in 1975 alongwith 4 others by Ex. W1 order dt. 20/10-76. There was an Agreement between the workers union and the Management in the meeting held on 26-4-1976 and 19-5-1979 at Main Hospital, Kothagudem and the minutes were recorded in Ex. M2. As per this agreement the Ward Boys and Ayahs who were in the grade of Rs. 274-7-344 should be given the scale of Rs. 285-7.50-360 and Rs. 310-9-400 i.e. Technical Grade 'F' on completion of 10 to 15 years of service. The Chief Medical Officer of S C. Co. Ltd., sent Ex. W4 dt. 14-9-86 (of which Ex. M3 is a copy) informing the Superintendent, Area Hospital, Bellampalli to implement the cadre scheme mentioned in Ex. M2 on 1st March and 1st September every year. The workman Bitti Rajaiah and 4 others were promoted as Ward Boys by Ex. W1 dated 20-10-76 and they completed 10 years of service on 20-10-1986. They were in 'H' Grade. The scales of pay were being increased from time to time. They have to be considered for being given 'E' Grade on 1-3-1987. In the meanwhile the vacancies of Operation Theatre Assistants arose and the workman Bitti Rajaiah applied for the same. He was selected and he was given Ex. W2 appointment order dt. 22-12-1986 and he was placed in 'E' Grade. Thus he got jump from 'H' Grade to 'E' Grade overlooking the 'F' and 'G' Grades. But his basic pay was fixed at Rs. 717 with effect from 22-12-1986 by Ex. W2 itself. While so his colleagues ward boys who could not get the promotion as Theatre Assistants and who continued to be as Ward Boys in 'H' Grade were considered on 1-3-1987 for 'G' Grade on completion of 10 years of service in the same post and the said grade was given to them. The basic pay of one of his colleague by name Sri Chandra Mouli was fixed at Rs. 724 from 1-3-1987 as per Ex. W6.

7. The position that emerged from the above facts is that while basic pay of the workman Bitti Rajaiah who got promotion and Double jump from Grade 'H'

to Grade 'E' was fixed at Rs. 717/- from 22-12-1986, even though he completed 10 years of service in Grade 'H' earlier his colleague Ward Boy who has only completed 10 years of service and who has got promotion from 'H' Grade to 'G' Grade only under the Cadre Scheme, got the basic pay of Rs. 724 from 1-3-1987. This is the grievance of the workman Bitti Rajaiah.

8. The petitioner's case is that soon after he completed 10 years of service as Ward Boy on 24-10-86, his basic pay should have been fixed in Grade 'G' and when he was promoted to Grade 'E' on 22-12-86 his pay in the said grade should be fixed. The contention of the respondent is that as the workman got the promotion even before his case was considered for Grade 'G', his request cannot be accepted. They rely upon Ex. M1 Circular dt. 19-8-1980. It is stated therein that when an employee is promoted from the lower Cadre to higher cadre his pay shall be fixen at the minimum of the higher category/grade and if such minimum is higher then his existing pay and if he gets less than one increment in the promoted scale, he should be given one full increment. The circular does not contemplate the present situation. The respondent mentioned in the counter that there is difference between the present workman's service linked upgradation and cadre scheme, I do not find any such difference. Even the workman Bitti Rajaiah was given such promotion "as per the cadre scheme only" in Ex. W2 the order by which he was promoted. Even according to Ex. W5 the service linked upgradation, the same procedure has been followed.

9. The workman Bitti Rajaiah cannot be denied the benefit of this service of 10 years even though he completed his service before promotion. The Management's stand that it would consider this cadre scheme only on 1st March and 1st September is not at all justified.

10. In the above circumstances, an Award is passed directing the respondent to fix the wages of Bitti Rajaiah in Grade 'G' on 24-10-1986 on which date he completed 10 years of service in Grade 'H' and pay wages of Grade 'G' to him till 22-12-1986 on which date he got promotion to Grade 'G' again fix his wages in Grade 'E' (from that date) and pay the same. He is entitled to corresponding increments and other benefits from year to year till now and in future.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 4th day of April, 1997.

V. V. RAGHAVAN, Industrial Tribunal-I

Appendix of evidence

Witnesses examined for Petitioner :

W.W.1.—K. Rajaiah.

W.W.2.—Bitti Rajaiah.

Witness examined for Respondent :

M.W.1.—Hasan Abbas.

Documents marked for the Petitioner

Ex. W1—Xerox copy of the appointment order of Sri Bitti Rajaiah as Ward Boy, dt. 20/24-10-1976.

Ex. W2—Office Order dt. 22-12-86 issued to B. Rajaiah placing him in Grade 'E'.

Ex. W3—Corrigendum dt. 6-1-1987 correcting as Rs. 567-14-63 instead of Rs. 605-18-857.

Ex. W4—Letter dt. 14-9-86 of C.M.O. to implement the cadre scheme on 1st March and 1st September every year.

Ex. W5—Circular dt. 17-1-90 to send the proposal to GM(Per) for grant of one increment to the employees in Excavation Spl. Category and Technical etc.

Ex. W6—Letter dt. 18-1-87 enclos'ing the statement of particulars of Chandra Mouli.

Ex. W7—Letter dt. 27/29-12-87 addressed to Bitti Rajaiah for bringing all his certificate.

Ex. W8—Basic fixation proposal of Bitti Rajaiah.

Documents marked for the Respondent

Ex. M1—Circular dt. 19-8-80 regarding fixation of pay on promotion in respect of daily rated and monthly rated employees covered by NCWA. II.

Ex. M2—Cadre Scheme for Ward Boys and Ayhas dt. 26-3-1984.

Ex. M3—Letters dt. 14-9-86 of the C.M.O. regarding the cadre scheme (Ex. W4 copy).

राहि दिल्ली, 16 मई, 1997

का.या. 1550— औद्योगिक विभाग अधिकारी, 1947 (1947 का 14) को भाग 17 के अनुसरण में, केन्द्रीय सरकार एन० सी० एल० के प्रबन्धनत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुवन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारी, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-5-97 को प्राप्त हुआ था।

[स. एल-22012/302/91-आई आर (सी-II)]

वी.एग. डीविड, ऐस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1550.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of N. C. Ltd. and their workman, which was received by the Central Government on the 14-5-1997.

[No. L-22012/302/91-IR(C-II)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE SHRI B.K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 170 of 1991

In the matter of dispute between :

Sri Baba Ram Singh C/o General Secretary
Koila Shramik Sabha Gaurai Maidan G.T.
Road Asansol West Bengal.

AND

General Manager Kakri Project Northern Coal-field Limited Post Office Bina Project District Sonbhadra

APPEARANCE :

B. P. Saxena for the Union and V. K. Gupta for the Management.

AWARD

1. Central Government, Ministry of Labour, vide its notification no. L-22012/302/91/IR(C-II) New Delhi, dated nil has referred the following dispute for adjudication to this Tribunal—

1. Kya Mahaprabandhak Kakri Project Northern Coalfield Limited Dakghar Bima, Project District Sonbhadra U.P. dwara Sri Baba Ram Singh Driver ko dinank 28-11-83 se karya mukta karna uchit avam vaid hai? Yadi nahi to ukta karamchari kis rahat ko pane ka haqdar hai?

2. The concerned workman Babaram Singh was admittedly appointed as a driver with the opposite party Kakri Project of Northern Coalfield Limited vide order dated 27-5-1983. Para (4) of the appointment letter reads as under—

Your character and antecedents shall be verified through police channel after your joining duty. In case the report about your character and antecedents is found to be adverse, your services shall be terminated at any time.

The concerned workman joined on 13-6-1983. In terms of above mentioned para (4) of the appointment letter his case was sent for police verification. The police sent a report the copy of which has been attached which showed that the concerned workman was convicted under section 5 of post & Telegraph Act and was sentenced to undergo for imprisonment for 1-1/2 years. Apart from this he was shown to be history sheeter and surveillance was done. On the basis of this adverse police report, the concerned workman was removed from service on 28-11-1983. Feeling aggrieved he has raised the instant industrial dispute. It has been urged that in the criminal case in which he was convicted, an appeal was filed and Sessions Judge Ghazipur had allowed the appeal after recording acquittal in his favour. In this way there was no stigma. In the claim statement nothing has been said about the concerned workman being history sheeter. Instead it has been alleged that when on the basis of this acquittal in appeal he made representation the authority did not give him appointment on the pretext that the concerned workman was given only benefit of doubt which is not legal. Hence the termination is bad in law.

3. The opposite party has filed reply in which it has been alleged that concerned workman was reported to bear adverse antecedents being a history sheeter as well hence he was rightly not granted appointment again.

4. In the rejoinder nothing new has been said.

5. In support of this claim the concerned workman has filed Ext. W-1 to W-10 which are in the nature of representation. Apart from this he has given his evidence as Baba Ram Singh w.w. l. Apart from this concerned workman has also filed a certificate dated 29-1-1996 given by police. There are no adverse antecedent against the concerned workman. In rebuttal there is oral evidence of R P. Singh M.W. 1. Apart from this the management has filed the copy of police report which was received in the office

of the opposite party from the police when the matter was sent for police verification. I am of the view that in this case no merit of oral evidence will be relevant as obviously nothing can be proved about existence of adverse antecedent of the concerned workman at the time of appointment. It can be proved by the police report alone. That report has already been referred too. It comprises of two parts. In the first part, it has been shown that the concerned workman was convicted and sentenced in a case of Post & Telegraph Act. The other is that he is history sheeter. I accept the version of the concerned workman that he was ultimately acquitted by the appellate court hence this stigma did not exist, when police report was submitted. Still the second part of the police report did not stand when police verification report was sent. In the claim statement the concerned workman has not denied that he was recorded as history sheeter. Even if he had done so I would not have accepted the same as his bald statement was not enough to discard the police report in this regard. As regards the report of public of Mirzapur dated 29-1-1996 I am of the view that it will have no bearing with regard to the report dated 24-10-1983. It may be possible that since the receipt of above mentioned adverse mentioned report, the concerned workman would have mended his ways and thereby would have earned good certificate from the police by subsequent good conduct. But as said earlier this would not obliterate the earlier report about the concerned workman being history sheeter dated 24-10-83. Thus on the basis of the fact that the concerned workman was a history sheeter at the time of appointment. I think the management was justified in dispensing with the services of the concerned workman in terms of para (4) of the appointment letter.

6. Consequently my award is that termination of the concerned workman is not bad in law and he is not entitled for any relief.

7. Award is given accordingly.

B. K. SRIVASTAVA, Presiding Officer

नवं दिल्ली, 16 मई, 1997

का.आ. 1551 अर्द्धोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार एम० सी० पी० एन० के प्रबन्धतंत्र के संबद्ध विवेकों और उनके कामकारों के बीच, अनुबन्ध में निर्दिष्ट और्द्धोगिक विवाद में अर्द्धोगिक अधिकारण हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/5/97 को प्राप्त हुआ था।

[सं. एल-22012/310/94-प्राई आर (सी-II)]

वी.एम. रैविल, ईस्क अधिकारी

New Delhi, the 16th May, 1997

S.O. 1551.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workman, which was received by the Central Government on the 14-5-1997.

[No. L-22012/310/94-IR-CII]

B. M. DAVID, Desk Officer

ANNEXURE
BEFORE THE INDUSTRIAL TRIBUNAL - I AT
HYDERABAD

PRESENT :

Sri V. V. Raghavan, B.A., LL.B., Industrial Tribunal-I.

Dated : 9th day of April, 1997

INDUSTRIAL DISPUTE NO. 1 OF 1995

BETWEEN

The Working President, Andhra Pradesh
 Colliery Mazdoor Sangh (INTUC),
 Godavarikhani, District : Karimnagar ... Petitioner.

AND

The General Manager,
 Singareni Collieries Company Limited,
 Ramagundam Area II, Godavarikhani,
 District : Karimnagar ... Respondent

APPEARANCES :

Sri G. Ravi Mohan, Advocate for the Petitioner
 M/s. K. Srinivasa Murty and G. Sudha,
 Advocates for the Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-22012/310/94-I.R. C. II dated 29-11-1994 made the following reference under Section 10(1)(d) & 2A of Industrial Disputes Act, 1947 for adjudication :

"Whether the action of the management in dismissing the services of Shri B. Sailu, Ex. General Mazdoor GDK II A Incline is justified and legal ? If not, to what relief is the workman entitled to ?"

2. The workman filed a Claim Statement contending as follows : The workman (hereinafter called the petitioner) was appointed as Badli Filler at Godavarikhani No. IV Incline on 15-1-1986. He was promoted as General Mazdoor in 1989. He was directed to work as a conveyor operator for 38 L Gear head belt on 17-2-1992. Sri V. Bixmaiah Officer and Rajashekhar Jr. Executive Trainee came to 34 L/1 seam at about 6.15 P.M., stayed for about 10 minutes and gave direction to the petitioner to clear the blockage at 32 L and went away. The petitioner complied with the instructions of the superiors. He came back to his original place i.e. 34 L/1 seam, Mr. V. Bixmaiah and Rajashekhar came again and sat at the switch point. They found some cable under the conveyor belt and asked the petitioner about the cable wire. The petitioner replied that he was not aware of that cable. Thereafter the petitioner was served with charge sheet and he gave explanation to it denying the charges framed against him. Thereafter the enquiry was not conducted properly. No opportunity was given to the petitioner to defend himself. The Enquiry Officer gave a finding that the charge is disproved though there is no evidence. He was dismissed from service. The other charge is not proved. The petitioner was unemployed since 1993. The respondent may be directed to reinstate the petitioner with back wages and other attendant benefits.

3. respondent filed a counter contending as follows : The petitioner was appointed as Badli Filler in 1986 and absorbed as General Mazdoor on 1-11-89

when a vacancy arose. He was working in GDK 11A Incline. He was engaged to work as Conveyor Operator in 11nd Shift for 38 level Gear Head belt on 17-2-1992, Sri V. Bixmaiah under Manager and N. Rajasekhar Rao, Junior Executive Trainee went round the Mine after distributing the work. They reached 34 L/1 Seam at about 6.15 P.M. where the petitioner was working as Conveyor Operator in 11nd Shift for 38 level Gear Head Belt and found that there was approximately 13 Mtrs. armoured cable kept idle for mining purpose to the north side of conveyor belt and no other material was found under the belt at that place. While they were going round the Mine, they found that the signal bell was ringing for stoppage and that the petitioner was not stopping the Bell at 9 P.M. When they reached him, the petitioner was throwing some material under the belt. When they questioned the petitioner, he has not given any answer about the material the petitioner threw. V. Bixmaiah and Rajasekhar went under the Conveyor Belt and found a separated armoured cable approximate length of 1.5 Mtrs. They found a core with the insulation removed. The petitioner himself voluntarily committed the theft. So the Under Manager gave report to the Officer. The enquiry was conducted in which the petitioner participated. The petitioner did not examine any witness. He examined himself. The enquiry was conducted as per standing orders and principles of natural justice. The petitioner was found guilty of the offence and then he was dismissed from service. The offence of theft is a serious one and cannot be condoned. The armoured cable is exclusively used in the mine. It is not available in the open market. The Management lost confidence upon the petitioner. Hence the dismissal of the petitioner may be confirmed.

4. The respondent filed the record of domestic enquiry into this Tribunal and the documents are marked as Exs. M1 to M14. Both the parties are heard and this Tribunal by its order dt. 28-11-1996 held that the domestic enquiry is conducted properly without any illegality or irregularity and by following principles of natural justice. Then both the parties are heard on merits of the case.

5. The point for consideration is whether the petitioner is entitled to reinstatement with back wages and other attendant benefits?

6. POINT :—The petitioner has been working as Badli Filler from 15-1-1986 and General Mazdoor from 1-11-1989. On 17-2-1992 the petitioner was asked to work as Conveyor Operator. While he was acting as such Mr. V. Bixmaiah Under Manager and Rajashekhar Jr. Executive Trainee came to him at 6.15 P.M. and they stayed there for about 15 minutes. They gave instructions to the petitioner. They found approximately 13 Mtrs. armoured cable lying idle near the belt. Later they observed that though the signal bell was ringing for stoppage of the belt, it was not stopped and so both of them proceeded to 34 L/1 seam to find out why the petitioner did not stop the belt. So both the officers came to the Place of petitioner's work and on seeking them the petitioner threw some material under the belt. Their question to the petitioner did not evoke any response. Both the officers found 1.5 Mtrs. long armoured cable lying

under the belt. The material insulation was removed. The cable contained copper wire and one copper wire was removed from the cable. The petitioner did not give any reply to the Officers. So Bixmaiah Under Manager gave Ex. M1 report to the concerned Officer which resulted in a charge sheet and enquiry. The version of the petitioner in Ex. M3 reply and Ex. M9 deposition before the Enquiry Officer is one of denial, Sri V. Bixmaiah and Rajasekhar Rao the Jr. Executive Trainee deposed that the petitioner had committed theft of armoured cable which was under the belt. The petitioner had removed from one point. The petitioner did not cross examine them in the enquiry. The petitioner pleads ignorance of the availability of cable under the belt, but it was found there. I have no reason to disbelieve the evidences of P.Ws 1 & 2. I therefore hold the charge is proved.

7. So far as punishment is concerned, the petitioner has put in 6 years of service by then. There are no previous punishments. The value of the cable he tried to steal is not known. In these circumstances, the dismissal from the service for the misconduct of attempting to commit theft is harsh. Hence by exercising of powers under Section 11A of I.D. Act, an award is passed directing the respondent to reinstate the petitioner into service without back wages or any monetary benefit, but with continuity of service. The petitioner is entitled to wages from one month after publication of this Award.

Dictated to the steno-typist, transcribed by him, corrected by me and pronounced in the open Court, this the 9th day of April, 1997.

V. V. RAGHAVAN, Industrial Tribunal.

Appendix of Evidence.

Witnesses examined on either side.

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

- Ex. M 1 : Written complaint dt. 18-2-1992 submitted by Sri V. Bixmaiah.
- Ex. M 2 : Copy of Charge Sheet dt. 18-2-92.
- Ex. M 3 : Explanation dt. 20-2-92 submitted by the Petitioner.
- Ex. M 4 : Notice of enquiry dt. 21-2-92.
- Ex. M 5 : Notice of enquiry dt. 12-3-1992.
- Ex. M 6 : Enquiry proceedings dt. 18-3-92.
- Ex. M 7 : Statement of V. Bixmaiah, Under Manager.
- Ex. M 8 : Statement of N. Rajasekhar, Jr. Executive Trainee.
- Ex. M 9 : Statement of petitioner.
- Ex. M 10 : Enquiry Report dt. 26-3-92.
- Ex. M 11 : Letter dt. 15-5-92 of the Supdt. of Mines GDK No. 11A Incline, with regard to the recommendation of dismissal of the petitioner, alongwith service particulars.

Ex. M 12 : Notice dt. 13-5-92 to the petitioner to collect the enquiry report and to submit his representation.

Ex. M 13 : Reply dt. 20-5-1992 of the petitioner to Ex. M 12.

Ex. M 14 : Dismissal order dt. 4-6-1993 issued to the petitioner.

नई दिल्ली, 20 मई, 1997

का.आ. 1552.—औद्योगिक प्रबाल अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मिनरल एंड मिनरल नि. ग्राउंड हिन्दुबाजार एल्यूमीनियम कारपोरेशन लि. के घटनास्त्रे के संदर्भ नियोजकों और लोक कर्मकारों के बीच, अनुभव में निहिट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, स. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-5-97 को प्राप्त हुआ था।

[सं. एल-43011/3/85-D-III (धी)]

दी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 20th May, 1997

S.O. 1552.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Minerals & Minerals Ltd., Hindustan Aluminium Corp., Ltd., and their workmen, which was received by the Central Government on the 20-5-1997.

[No. L-43011/3/85-D. III (B)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri T. Prasad, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 221 OF 1987

PARTIES :

Employers in relation to the management of Minerals and Minerals Limited and Hindustan Aluminium Corporation Limited and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Bauxite.

Dated, Dhanbad, the 12th May, 1997

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-43011/3/85-D. III (B), dated, the 7th August, 1987.

SCHEDULE

"Whether the action of the management of Hindustan Aluminium Corporation Limited, P.O. Richighuta, District Palamau in terminating the services of S/Shri Kumar Ganju and Sukhdeo Ganju, Miner Rudnipat Bauxite Mine with effect from 6-6-1984 is justified ? If not to what relief the workmen are entitled ?"

2. The order of reference was received in this Tribunal on 31-7-1987 and the same was registered as Reference No. 221 of 1987. Thereafter notices were served upon the parties. But both the parties neither turned up nor took any steps. Again notices were issued to them but inspite of the issuance of notices to them they neither turned up nor took any steps. It therefore leads me to an inference that presently there is no dispute existing between them and in the circumstances, I have no other alternative but to pass a "No dispute" Award in this reference.

T. PRASAD, Presiding Officer

नई दिल्ली, 19 मई, 1997

का.आ. 1553.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. का सिजुआ क्षेत्र V का लोयाबाद रीजिनल स्टोर के प्रबन्धतंत्र के संबंध नियोजनों और उनके कर्मकारों द्वीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-97 को प्राप्त हुआ था।

[सं. एल-24012/35/87-डी 4(बी)/प्राइवेट(सो-I)]
अज बोहन, डेस्क अधिकारी

New Delhi, the 19th May, 1997

S.O. 1553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Loyabad Regional Store of Sijua Area V of M/s. BCCL and their workmen, which was received by the Central Government on 16-5-1997.

[No. L-24012/35/87-D. IV (B)/IR (C-I)]
BRAJ MOHAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri T. Prasad, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 276 OF 1987.

PARTIES :

Employers in relation to the management of Loyabad Regional Store of Sijua Area-V, M/s. B.C.C. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 12th May, 1997.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(35)/87-D. IV(B), dated the 25th September, 1987.

SCHEDULE

"Whether the demand of the Union that the workman Shri Anil Kumar Mishra should be given Technical Grade-A as Stores Supervisor by the management of Loyabad Regional Store of Sijua Area-V, M/s. Bharat Coking Coal Ltd., P. O. Sijua, District Dhanbad is justified ? If so, to what relief is the concerned workman entitled and from what date ?"

2. The order of reference was received from the Ministry on 31-10-1987 and the same was registered as Reference No. 276 of 1987. Thereafter notices were served upon the parties. But both the parties neither turned up nor took any steps. Again notices were issued to them but inspite of the issuance of notices to them they neither turned up nor took any steps. It therefore leads me to an inference that presently there is no dispute existing between them and in the circumstances, I have no other alternative but to pass a "No dispute" Award in this reference.

T. PRASAD, Presiding Officer.

नई दिल्ली, 20 मई, 1997

का.आ. 1554.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैट्रल माइन्ज प्लैनिंग एण्ड डिजाइन इंस्टीट्यूट लि., रांची के प्रबन्धतंत्र के संबंध नियोजनों

और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-97 को प्राप्त हुआ था।

[सं. एल-20012/195/90-आई.आर. (सी. I)]

ब्रजमोहन, डैस्क अधिकारी

New Delhi, the 20th May, 1997

S.O. 1554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Mines Planning And Design Instt. Ltd., Ranchi and their workmen, which was received by the Central Government on 19th May, 1997.

[No. L-20012/195/90-IR(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri T. Prasad, Presiding Officer.

In the matter of an Industrial Dispute Under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 30 of 1991

Employers in relation to the management of Central Mine Planning and Design Institute Ltd., Ranchi and their workmen.

APPEARANCES:

On behalf of the workmen—Sri S. S. Upadhyaya, concerned workman.

On behalf of the employers—Sri U. Prakash, Dy. P. M.

STATE : Bihar. INDUSTRY : CMPDIL

Dated, Dhanbad, the 13th May, 1997

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (195) | 90-IR-(Coal-I), dated the 28th December, 1990.

SCHEDULE

"Whether the demand of the Union that Shri S. S. Upadhyaya, Security Guard should be reinstated and regularised w.e.f. his initial date of his engagement i.e. 1-4-1985 in the prescribed scale of Security Guard

with all benefits and back wages is justified? If so, to what relief the workman is entitled and from which date ?

2. Soon after the receipt of the order of reference notices were duly served upon the parties. Both the parties appeared and filed their respective W.S. documents, etc. Subsequently when the case was fixed on 9-5-97 for evidence of the management, Shri U. Prakash appeared for the employers and the concerned workman appeared himself and filed an application with an affidavit stating therein that his matter has already been settled with the management and he has no demand with the management. He also submitted that the settled the matter independently and not through the union though the dispute was raised through the Union. He has been examined as Court witness (WW-1) and proved the above two documents which have been marked as Ext. W-1 and W-2. In his evidence also he categorically stated that he has no demand with the management. In such circumstances, I have no other alternative but to pass 'No dispute' Award in this reference.

T. PRASAD, Presiding Officer

नई दिल्ली, 23 मई, 1997

का.आ. 1555.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में सर्व सी.री.एस. की कुजु कोयलाखाने के प्रबन्धनाव के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-5-97 को प्राप्त हुआ था।

[सं. एल-20012/130/89-आई.आर. (कोल-1)]

ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 23rd May, 1997

S.O. 1555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kuju Colliery of M/S. C.C.L. and their workmen, which was received by the Central Government on 20th May, 1997.

[No. L-20012/130/89-IR(Coal-1)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 13 of 1990

PARTIES :

Employers in relation to the management of
Kuju-Pundi Project of C.C. Ltd.

And

Their Workmen.

PRESENT :

Shri Tarkeshwar Prasad, Presiding Officer.

APPEARANCES :

For the Employers:—Shri R. S. Murthy, Advocate.

For the Workmen.—Shri R. C. Verma, Secretary, Jharkhand Colliery Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 12th May, 1997

AWARD

By Order No. L-20012(130)189-I.R.(Coal-I) dated the 4th June, 1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Kuju-Pundi Project of C. C. Ltd. P.O. Kuju, Dist. Hazaribagh by not regularising S/Shri Kalicharan Mahato & 54 other workmen as mentioned in the list attached with Annexure and also not making payment of their wages individually for the period from 1-2-1988 to 16-2-1988 is justified ? If not, to what relief the workmen concerned and entitled ?”

2. The workman and sponsoring union have appeared and filed written statement stating therein that the management is a public sector undertaking and Kuju-Pundi Project is under C. C. Ltd. and the sponsoring union is a registered trade union having 1500 workers on its roll and also stated that the concerned workmen were engaged for water supply by the management through contractor and this work is a continuous and permanent nature of work and the same work is done at some other places through contractor's workers also. The matter was under consideration for abolition of contract system and to regularise the workmen in services and for payment of proper wages. It is also said that water supply work through contractor is under prohibited category of Contract Labour (Regulation and Abolition) Act, 1970 and in violation of this Act, the system was being continued by the colliery management for supply of water through contractor's workers. It is also submitted that in various collieries of C. C. Ltd. management the work of water supply which is permanent nature of job is being done through departmental workers and in Charhi colliery of M/s. C. C. Ltd. 13

workers were regularised for such supply of water and it was further stated that award be passed in favour of the workmen.

3. The management has appeared and filed written statement stating, inter alia, that the reference itself is not maintainable and the Central Government is not the appropriate Authority to make the reference and this is not an industrial dispute at all as the job of water supply was being carried out in the residential township which is not part of the trade or business of the company. It is also said that unfiltered water was all along available in the residential township for use of the residents and officers and a small section of the employees, arrangement was made for supplying drinking water from the wells located in the township and this was purely temporary arrangement and from February, 1988 pumps were installed and the pipe lines laid out to supply drinking water to the residents of the township. It was said that to supply drinking water to the officers and a small section of employees, three water suppliers were engaged to supply drinking water, namely, Kali Charan Mahto, Ramesh Rajak and Dayal Ram and they were supplying water at the fixed rate of each Bhar containing two tins of water and it took 2 or 3 hours a day. It is also said that the workmen were engaged by the suppliers to supply water as per requirement in the colliery and for which bills were submitted after passing the same payment was made to the suppliers who used to pay the workers and the management was not concerned with those persons and there was no relationship of master and servant between them. It is also said that the water supply was related to the residents of township which falls outside the mine premises and it was not connected with any activity relating to production of coal thereto and the Central Government was not appropriate authority to make the reference.

4. It is further stated that the management no longer requires water supplier and the persons engaged by the said suppliers might have taken some other work and the management did not require such workmen. It is said that in view of the matter there is no question of management making any payment to so called wages to the workmen and the management is required to make payment bills to water suppliers who had undertaken to execute arrangement for doing such work. It is also said that there are surplus workmen with the management and there is no question of giving employment to a large number of workmen. It is further submitted that the workmen are not entitled for the claim for regularisation of service or making payment of any dues as claimed.

5. By way of rejoinder to the written statement of the management the same has been denied specifically and parawise and it is said to be incorrect and denied. It is finally said that award be passed accordingly as the workmen are not entitled for any relief as claimed.

6. I further find that the workmen have filed their rejoinder to the written statement of the management and the contention of the management has been denied specifically and parawise and the same is said

to be incorrect and denied. The statement of the management is also misconceived and baseless and it was denied and prayer was made to pass the award in favour of the workmen.

6. On the basis of the pleadings of the parties the points for consideration in this reference are—

- (a) As to whether the action of the management by not regularising the workmen, Kalicharan Mahto and 54 others as per list attached with the annexure and not making payment of their wages from 1-2-1988 was justified ?
- (b) If not, to what relief or reliefs the workmen were entitled ?"

7. The management has examined two witnesses, MW-1 Satrughan Singh and MW-2, Krishna Kumar, who were working in Kuju Colliery from November, 1982 to October, 1985 and from 1982 to 1988 respectively in the capacity of Personnel Officer, Sr. Personnel Officer and Personnel Officer (Welfare). They have come forward to support the case of the management given in the written statement and it is stated that three/four contractors were engaged for supplying drinking water in the colonies as per Bhar and drinking water was supplied to time-rated categories in IV, V and VI. Drinking water was also supplied to officers' quarters and this way drinking water was being supplied to about 450 to 500 quarters and the contractors used to supply water through workers and used to maintain records which was not maintained by the management. It is also said that the demand of the workmen was not justified. He has said that he did not know the workmen individually nor could say their names nor attendance was kept by them. He could not say the name of contractors at present and there was no written agreement with the contractor. No material was supplied by them to the workmen for supplying water was supplied by them to the workmen and has denied that piece-rated employees of C.C.L. used to carry water. He was not present in the meeting dated 11-5-1988 and the workmen used to supply water in the quarters as per their order. He could not say total number of workmen engaged for such work. He also could not say total number of quarters in Kuju Colliery and he has come for adducing evidence on behalf of the management as being officer of the management but has denied that he was adducing falsely.

8. The evidence of MW-2 is on the same line and has stated that the workmen were supplying water to about 500 quarters for about three hours on a day and no departmental water carrier was ever engaged. This water supply arrangement was temporary and continued till February, 1988 and thereafter water supply was made through water taps. He has admitted that no payment for February first quarter was taken by the Contractor, and at that time the sponsoring union, Jharkhand Mazdoor Union was not functioning there. He has denied that the workmen were directly engaged by the management for supplying of water. He has further said that he was not appearing before the A.L.C. in this dispute

and know the contractor who had engaged workers for supply of water and there was no register for contractor. He also could not say that all the contractors were registered or not. He could not say that there was any agreement between the management and the union and that joint sitting of the union and the management took place on 11-5-1988. At present he was working in Sonda 'D' Colliery and has denied that he was adducing falsely. However, he has admitted that water supply through contractor was going on in the colliery since long but no Office Order was issued in this connection. No other witness was examined on behalf of the management.

9. The workmen have examined altogether five witnesses, WW-1 Din Dayal Ram, WW-2 Bhuneswar Shaw, WW-3, Kali Charan Mahto, WW-4 Somar Manjhi and WW-5 Ekbal Hussain Ansari of them WW-1 to WW-3 are concerned workmen who have worked in Kuju Colliery from the years 1979 or 1983 to 1988 and they were stopped from work from 14-2-1988. The aforesaid all 55 workmen were similarly engaged by the management to supply water through 'Bhar' and at the time of stoppage of work no prior notice was given to them nor any notice compensation was given and still employee of CCL were supplying water to the residents of the colonies in similar manner. They have not been paid their due from 1-2-1988 to 16-2-1988 and regular water carrier of the management are getting Rs. 2500/- to Rs. 2600/- per month for supplying water to the residents of the colony in similar manner. Their attendance was marked by the employees of CCL. Wajiali Khan and Sri Agarwal. Endorsement of the employees of the management on such documents have been proved as marked Exts. W-5 W-6 and W-7 series which are five slip books. All of them have been cross-examined in full but nothing has been taken from them rather they have stated that they were working for whole day for supplying water and earlier there was 10/11 workmen were working as water carrier and bill was used to be paid in the name of Din Dayal Ram and the amount of the bill was disbursed by the Munshi of the management. Subsequently bill was prepared in the name of Din Dayal Ram and Kali Charan Mahto and wages was disbursed by the Munshi of the colliery. WW-1 has further stated that there were 5 to 6 colonies. He could not say that there were 600 quarters in total in those colonies. They used to supply drinking water in 500 quarters. They used to supply water from 4 A.M. to 12 Noon for about 7 to 8 hours daily. He has denied that only 14 to 15 Bhars of drinking water were supplied by them which took 1 or 3 hours. WW-2 has further stated that they were paid Rs. 300 per month each whereas regular employee of the management were getting Rs. 2500/- per month. He has further stated that some persons who had supplied water in the like manner in Charhi Area and they raised dispute for regularisation in the like manner, were regularised in service by the management. He has denied that earlier they were supplying water on their own and they were charging money from persons concerned and has further said that this was continuing all along. They have also denied that they

were paid by the supplier Kali Charan, Din Dayal Ram or Ramesh Rajak and denied that no payment was made to them by Munshi of the colliery. He has also admitted that new office of the G.M. in the Kuju Area is about 1 K.M. nearer to the colony and is about 2 K.M. away from colony and they used to supply water in the G.M. office.

10. Similarly, W W-3 has been examined and has further stated that in Ext. W-7 series names of all the workmen is not mentioned therein. He has denied that from 15-2-1988 the management stopped the system of supply of water through Bhar because the management installed its own filter plant and tap water was being supplied in the quarters and for that no notice was required to be given to them. He has also said that he stated falsely that in some collieries or CCL drinking water was supplied through its regular employees and that their attendance was not marked by the Munshi of the management.

11. W W-4 Somar Majhi and W W-5 Ekbal Hussain Ansari are regular employees of Kuju Colliery and WW-4 is General Mazdoor in Cat. I since 1992 whereas WW-4 is working as Clerk Grade-III. They know the workmen who were living in the same locality and photo copy of the agreement between the management and the union and it was signed by WW-4 and marked Ext. W-8 and have stated that the workmen were paid by the officers of the colliery, Ekbal Hussain and they used to supply drinking water to the quarters of the CCL employees and still now the management has not arranged for supply of drinking water to the employees. He has further admitted that similarly situated mazdoors in Charhi Area have been regularised and at present drinking water was being supplied to the officials of the management by regular mazdoors of the company. He has further admitted that at Kuju there are four places and 600 quarters are there and all the workmen were supplying water to those quarters prior to stoppage of their work. He stated that Ekoal Hussain is working as Munshi and he used to make payment to these workmen. He denied that Kali Charan Mahto, Ramesh Rajak and Dayal Ram were three water supplier contractor who used to supply water through their workmen and payment was made to them and that they used to pay to their workmen. He has further stated that about 25 permanent mazdoors are doing the same job in place of the concerned workmen but he could not say their name.

12. Similarly, WW-5 admitted that the workmen were supplying water earlier through Bhar and some of them were working since 1979 when he himself joined the colliery and some other workmen were engaged as necessity arose and he used to supervise the work of water supplier in the colony. He has further stated that on the direction of the management official he used to employ those workmen for this work and since 1984 the workmen were being paid 0.44 paise per Bhar, but initially they used to be paid 0.25 paise per Bhar which was subsequently increased to 0.37 paise per Bhar. He has further stated that they used to supply materials for the work, such

as, rope, bucket etc. for water supply. He has further admitted that in the year 1987 the workmen were paid at the counter of the colliery and money was given to him under instruction of the management and he used to distribute the same amongst the workmen and register for such payment was maintained and those registers would be available in the office. He has also said that the management has arranged for supply of water through boring, but in rest of the colonies management supplied only bathing & cleaning water, but the workmen of the colony now manage for drinking water themselves. He has also said that regular employees of the company who supplied water to colonies were paid on the basis of daily wages and they have been regularised and doing different job in the company.

13. In the cross-examination he has stated that it is not correct that the workmen, Ramesh Rajak, Kali Charan Mahato and Dayal Ram were three suppliers were engaged for water supply in the colonies on contract by the management and they engaged the workmen on their own for supplying water. He has also said that the management authorities directed in writing to engage the workmen for supply of water. He could not say that the management did not appoint these workmen for supply of water. He has stated that the workmen, Ramesh Rajak, Kali Charan Mehto and Dayal Ram used to Submit statement of the number of Bhars and accordingly bills were prepared for their payment. The colonies were distributed in three parts and each of the three persons used to submit statement of Bhars and accordingly bill was prepared in the name of those persons and payment was made in the counter. He was not given any writing order for distribution of money amongst the workmen, but he had written order for supervising the work of the workmen and copy of the order, if available, will be available with him and he could file such order. He has further said that document would be available in the office of the store of the colliery. He has further denied that from 16-2-1988 the company made arrangement for supplying drinking water in the colonies. However, he has stated that arrangement was made for supply of water but not drinking water in some colonies. He has further stated that he was given responsibility to supervise supply of water in the colonies in the year 1984 onwards, but he could not say exact number of Bhar carriers amongst workmen in the year 1984 to 1988. His duty hours are from 7 A.M. to 3 P.M. and he was allowed half of Sunday as his weekly rest day. He has proved Ext. W-5 series in a bunch prepared by him and has further denied that the management has arranged for supply of drinking water in all the quarters of the colony and there was no need for employing any person for the purpose. He has also denied that the management did not employ the workmen for providing drinking water. He has also denied that some departmental employees were not doing the same work.

14. Some documents have been filed on behalf of the parties and the management have filed Ext. M-1 photo copy of statement dated 6-4-87 showing supply of drinking water, Exts. M-2 and M-3 are similar documents dated 6-4-1987 and Ext. M-4 and M-4/1

and M-5 in bunch are bills showing payment to Kali Charan Mahato, Dayal Ram and Ramesh Rajak.

15. The workmen have also filed some documents which are Ext. W-1 photo copy of conciliation proceeding dated 20-2-1989, Ext. W-2 is F.O.C. dated 23-3-1989, Ext. W-3 document dated 18/21-10-1994 for supply of drinking water Ext. W-4 is Joint Arbitration Award dated 9-12-1984, Ext. W-5 is application dated 19-11-84 to the Mines Manager, Ext. W-6 is chit dated 11-8-1984, Ext. W-6/1 work order, Ext. W-7 series in five bunch of slips and Ext. W-8 is photo copy of agreement dated 7-4-1988.

16. While arguing the case it has been submitted on behalf of the management that the reference itself is not maintainable as the work of the concerned workmen was supply of water in residential quarters of the colliery which is far away from the mine and is not covered under the Mines Act nor their job comes under prohibited category of work as per Contract Labour (Regulation & Abolition) Act, 1970 and the Central Government is not competent authority to make this reference under Sec. 2(k) of the Industrial Disputes Act and the competent authority is the State Government, so his reference was not maintainable at all. It was submitted that the sponsoring union was not competent to raise the dispute as the said union was not working in the colliery of the management in the relevant period and the workers were contractor's workers supplying water in the quarters and working only for 2/3 hours and this fact has been admitted by WW-1 to WW-4 whereas WW-1 to WW-3 are three concerned workmen out of the concerned workmen of the reference. It is submitted that the claim of WW-5 who is Clerk of the management is contrary to the evidence of WW-1 to WW-3 who have stated that they were working directly under the direct control & supervision of the management and he was supervising their work payment was made to them by him from the colliery counter whereas WWs have admitted that payment was made to three water suppliers and they used to distribute the money amongst the workmen. It is also submitted that they were also supplying water to the shopkeeper and other residents of the localities and as such they were not directly controlled by the management and they worked 2/3 hours for supplying water in the quarters for which payment was made by the occupants of the quarters individually as per evidence of WW-3 who has claimed that still they were supplying water and payment was made by the occupants. Naturally they are not workmen of the company management and there was no relationship of employer—employees between the parties and there is no question of regularisation of service of the workmen by the management. They were also not stopped from work by the management rather contractor had stopped their work and if any claim was to be made for their regularisation ought to have been made against that contractor and not from the company. It is further submitted that after 15-2-1988 filtered water was commenced and water supply was being made in the quarters of the staff and officers through pipeline and there was no requirement of the workmen for further work and the

contractor might have stopped their work as their work was finished and in this view of the matter it is submitted that they were not entitled for their regularisation in service by the company and so far payment was ready to make payment of this due wages 16-2-1988 is concerned it has come in the evidence of WW-3 that offer for payment of due wages for the aforesaid period was made by the company, but they were not ready to receive the amount till the decision of the reference and it is submitted that the management was ready to make payment of this due wages prior to this reference also and at present also. There is no hitch for payment of the same but the workmen themselves were not ready to receive the payment for some vested interest and they might be expecting their regularisation in service to which they were not entitled at all. It is further submitted that making supply of water by the contractor—supplier is not prohibited under the Contract Labour (Regulation & Abolition) Act, 1970 and engagement of such contractor is quite prevalent in other collieries also.

17. So far regularisation of the workmen in Charhi colliery who were supplying water earlier, it is said that they were appointed directly by the management for casual work for working in office and in the colliery and thereafter they were regularised in service, but the case of the workmen is not on the similar footing and they were contractor's workmen to which responsibility did not vest with the management and it is also incorrect to say that there was no contractor-supplier rather it was simply paper arrangement which is shame and camouflage to deprive the workmen from their due wages. It is also submitted that there was no exploitation of workmen or any unfair labour practice adopted by the company-management and from the documents, papers filed on behalf of the management it would appear that they were working with the contractor-supplier and payment was being made by those contractors who used to submit bills to the company and after passing bills payment was made to the contractor and thereafter they used to distribute the same amongst the workmen. In this view of the matter the colliery management was not their principal employer and as such the action of the management in not regularising their service is fully justified and they have also not completed 240 days continuous work within 12 calendar months and they are not entitled for such regularisation at all.

18. On the other hand, it is submitted on behalf of the workmen and sponsoring union that from the evidence of MW5 and WWs examined in this case it is clear that they were working in the colliery under the management of CCL from the year 1979 onwards and they worked continuously supplying water daily even on Sundays and holidays upto 15-2-1988 when they were stopped work without giving any notice or notice compensation and they have completed many more 240 days of continuous work with the management in 12 calendar months in all the years and the management deliberately and intentionally did not regularise their service and discrimination has been made with them. It is also submitted that it is incorrect to say that they were working as part time

only 2/3 hours supplying water whereas WW-5 who is regular employee of the management has stated that his duty was to supervise supply of water made by the workmen in the quarters numbering more than 500 in different colonies and working time was from 7 A.M. to 3 P.M. and even on Sundays only half day rest was given to them as water supply was also made that day by the workmen and it is submitted they used to supply water from early morning from 4 A.M. to 1 P.M. and they were working continuously for 8 to 9 hours even on Sundays. But very meagre payment was made to them amounting to Rs. 300 to Rs. 400 a month whereas regular Class-IV doing the same work in some other collieries payment of Rs. 2500/- or Rs. 2600/- monthly was being made and for doing similar nature of job and there was no difference at all in the work of the workmen and regular employees of the company doing the same job. As per exhibits marked on behalf of the workmen Exts. W-1 to W-8 including attendance Ext. W-7 series in bunch and Arbitration Award and Agreement Ext. W-8 it is clear that the management agreed to consider the case of the workmen sympathetically for their reregularisation and some workmen doing the similar job were regularised in Charhi area of CCL management and list of those 13 workmen has been given in para 18 of the written statement of the workmen which has not been refuted by the management, but it is said that they were directly employed by the management in the office of the management of the colliery area for doing as casual but no such paper has been brought on record by the management to substantiate this contention.

19. Similarly it is also pointed out that the claim of the management that three contractors suppliers were engaged by the management for supplying drinking water in the colliery is concerned there is no such agreement or tender provided by the management to show that actually any such tender was called and agreement was made with so called contractor rather from the evidence of WW-1 to WW-3 it is clear that they were actually working like other workmen of this reference supplying water in the quarters of the management in different collieries and payment was made to them on Bhar basis which was very meagre starting from 0.25 paise per Bhar in the beginning and reaching to 0.50 paise per Bhar when the work was stopped. It is also pointed out that this plea of contractor is simply paper work which is sham and camouflage to defeat the claim of the workmen. It is also pointed out that the work of the workmen was for perennial and continuous nature of work and as per evidence of WW-4 and WW-5 who are employees of the management said that even after commencement of boring water which was supplied for cleaning and bathing purposes, the drinking water was supplied in the quarters and bunglows of the employees and officers of the management by the workmen, hence, the plea of the management that there was no work for the workmen after commencement of tap water system from 16-2-1988 has got no leg to stand and it is further submitted that rest of the quarters in different 4/5 colonies are part and parcel of the

mine area whereas the employees of the management and the officers were residing and making arrangement for supply of water to them is the responsibility of the management and had not this fact true then what was necessity for management to make arrangement for installation of tap for supplying of water as claimed by the management. From this assertion of the management it is clear that the management is duty bound to supply water in the residential quarters and also in the office campus of the colliery and this work was being done by the workmen for so many years starting from 1979 till February, 1988 and all on a sudden they were stopped work without any notice or notice compensation and even their wages is due from 1-2-1988 to 16-2-1988. So there clear cut violation of Sec. 25-F of the I.D. Act. It is further said that the workmen were working for the direct benefit of the management and under its control and under its supervision as per WW-5 and payment of their meagre wages was being made by the colliery management in presence of WW-5, so there is no merit at all in the plea of the management that there was relationship of employer and employees between the management and the employees. It is also pointed out that the residential quarters were part of the colliery and were covered under the Mines as defined under the Mines Act and the aforesaid colliery is under the management of M/s. C.C. Ltd. which is subsidiary of M/s. C.I. Ltd which is under direct control of the Central Government, hence the Central Government was quite competent to make the reference and the plea taken by the management has got no merit at all. I fully agree with this contention of the workmen and the sponsoring union and this plea has been taken by the management simply for the sake of the case and devoid of any merit.

20. After considering pleadings of the parties and also points of arguments advanced on behalf of the parties, I find much force on the plea of the workmen that they have worked many more 240 days work with the management under its direct control and supervision in 12 calendar months for years together and their work done was of perennial and continuous nature of job and employment of any contractor—supplier in this permanent nature of job is not permissible under the Contract Labour (Regulation & Abolition) Act, 1970 and the engagement of so-called contractor was simply paper arrangement which is sham and camouflage done by the management to deprive the poor workmen from their due wages. It is also clear that by paying such meagre amount to them for similar nature of job which are being done by permanent employees of the management in this colliery and in other collieries also they were being exploited and unfair labour practice was adopted by the management to deprive the workmen from their due claim of wages. It is to be noted that 13 workmen similarly situated and doing similar job were regularised by the management in Charhi area of C. C. Ltd. and the concerned workmen have worked for 8 to 9 years continuously with the management for a number of 240 days of work in all those years which is admitted by WW-4 and WW-5 officials of the management itself, I do not

find any merit in the plea of the management that its action of not regularising the service of the workmen was justified in any way. It is also to be noted here that even at present drinking water supply was being made by the workmen in most of the quarters of the colonies which was not being done by the management and so there was availability of work for the workmen and they also can be engaged in some other work like General Mazdoor in view of agreement Ext. W-8 entered into by the management with the sponsoring union.

21. Accordingly, it is held that the action of the management in not regularising the job of the workmen is not justified and the management is also liable to pay their due wages for the period 1-2-1988 to 16-2-1988. So far regularisation of the workmen is concerned no specific date has been given in the reference. But, it is clear that they were stopped from work from 16-2-1988 without compliance of provision of Sec. 25-F of the Industrial Disputes Act and as such their stoppage of work was void ab initio. Hence, the management is directed to give notional reinstatement and regularisation to all the workmen from 16-2-1988 for fixation of their wages and for the matter of seniority and other benefits. But arrear of back wages would be given to the workmen concerned from the date of issuance of reference by the Ministry i.e. 4-6-1990 on the principle of no work no pay, the workmen would be getting only 40 per cent of full back wages with effect from 4-6-1990 and they are further entitled to get their due wages from 1-2-1988 to 16-2-1988 which the management is ready to pay as per contentions in the written statement and in its evidence.

22. Hence, the award—

The action of the management of Kuiju-Pundi Project of C.C. Ltd. in not regularising Shri Kali-charan Mahato and 54 other workmen (list attached) is not justified. The management is directed to reinstate and regularise the concerned workmen with effect from 4-6-1990 with 40 per cent of full back wages and other benefits. The management is further directed to reinstate and regularise the workmen as per above direction and also to pay back wages within two months from the date of publication of the award in the Gazette of India.

However, there will be no order as to cost.

TARKESHWAR PRASAD, Presiding Officer

पानी आणि गैज़ प्रश्न मजदुरों की पर्व भची

1. श्री कालीचरण महतो

2. „ भवनेश्वर लाल

3. „ सोताराम साग

4. „ सांग महतो

5. „ गल मोहम्मद

6. „ अजिम फिटा

7. „ सररही फिटा

8. श्री मति बुखन देवी
9. श्री प्यादो आमिन
10. „ बैजनाथ राणा
11. „ धनेनाथ महतो
12. „ गिरु साब
13. „ साहिन महतो
14. „ खेजनाथ महतो
15. „ दुलार चंद महतो
16. „ गोराब राम
17. „ लंकर महतो
18. „ छटु अंगरिया
19. „ साउनी उराब
20. „ अर्जन प्रसाद
21. „ लक्ष्मन उराब
22. „ कंगली राम
23. „ गोहा महतो
24. „ ध्यानेश्वर महतो
25. „ जैतराग
26. „ बजरंग ठाकुर
27. „ तिमैल महतो
28. श्री काशीनाथ तुरी
29. „ शरीनाथ तुरी
30. „ प्रभु महतो
31. „ विराज राम
32. „ विशेश्वर महतो
33. „ रघु तुरी
34. „ तिवारी तुण्डा
35. „ अनवर ग्रली
36. „ अखतर अंसारी
37. „ महेश महतो
38. „ भोला महतो
39. „ रिना महतो
40. „ रमेश रजक
41. „ शिव नारायण मुण्डा
42. „ महेश कशोरा
43. „ चरका महतो
44. „ दीन दयाल राम
45. „ सतीश चन्द्र महतो
46. „ लोचन महतो
47. „ श्री नन्दलाल महतो
48. „ तेजन महतो
49. „ रीतलाल महतो
50. „ अन्दु लाल महतो

51. श्री भुखल मांझी
 52. , गोवरधन महतो
 53. , मगत महतो
 54. , जगदीश महतो
 55. , नन्द महतो

नई दिल्ली, 23 मई, 1997

का.प्रा. 1556—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसमं सी.सी.एल. की कंडला ओपन कॉस्ट प्रोजेक्ट के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार द्वा र 20-5-1997 को प्राप्त हुआ था।

[स.एल. 20012/242/92 आई.आर. सी-1]

ब्रजमोहन, डेस्क अधिकारी

New Delhi, the 23rd May, 1997

S.O. 1556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kedla Open Cast Project of M/s. C.C.L. and their workmen, which was received by the Central Government on 20th May, 1997.

[No. L-20012/242/92-IR(Coal)-I]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri T. Prasad, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 122 OF 1993

PARTIES :

Employers in relation to the management of Kedla Open Cast Project of M/s. C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 14th May, 1997

AWARD

The Govt. of India Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/242/92-I.R. (Coal-I), dated, the 2/6-9-1993.

SCHEDULE

"Whether the punishment given to Shri Lukho Rajak by not paying the wages for the period Oct., Nov. & Dec. 1989 & 1-9-1990 to 30-10-1990 on the basis of 'No work No pay' by the management of M/s. C.C. Ltd. is justified and legal ? If not, to what relief the workman is entitled ?"

2. The dispute has been settled by the management and the sponsoring union out of the Tribunal. A memorandum of settlement has been filed in this Tribunal. I have gone through the terms of settlement and I find that the terms contained therein are quite fair and reasonable. I allow the prayer and pass an Award in terms of the settlement which forms part of the Award as annexure.

3. Let a copy of this award be sent to the Ministry as required under Sec. 15 of the I.D. Act.

T. PRASAD, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2
AT DHANBAD

REFERENCE NO. 122/93

Employers in relation to the management of Kedla Open Cast Project

AND

Their Workmen

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sweth :—

(1) That the aforesaid disputes has been amicably settled between the parties on the following terms.

TERMS OF SETTLEMENT

- (a) That the concerned workman Sri Lukho Rajak will be paid wages for the month of September and October 1990.
- (b) That the concerned workman Sri Lukho Rajak will not claim any wages from 1st October 1989 till December 1989.
- (c) That the stoppage of one SPRA will be effected in place of two SPRA and his wages will be adjusted with immediate effect.

1. That the concerned workman will not be entitled for any arrear wages on different of wages save and except the salary for the month of September, 1990 and October, 1990.

2. That in view of the aforesaid settlement there remain nothing to be adjudicated.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the settlement on fair & proper and be pleased to pass the Award in terms of settlement.

For the workman
Sd./-

For the Employers

- | | |
|------------------------------|--------------------|
| 1. Kamdeo Pd. Singh
Sd./- | 1. Sd./- illegible |
| 2. Lukho Rajak | 2. Sd/- illegible |

नई दिल्ली, 23 मई, 1997

का. आ. 1557.—ओदोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसेज सी.सी.एल. की जारंगपुर कोयला, खान के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट ओदोगिक विवाद में केन्द्रीय सरकार ओदोगिक अधिकरण नं. I, धनबाद के पंचाट द्वारा प्रकाशित करती है, जो केन्द्रीय सरकार को 20-5-97 को प्राप्त हुआ था।

[स. एल-20012/351/93-धाइ.आर. (कोल I)]
ब्रज मोहन, ईस्क प्रधिकारी

New Delhi, the 23rd May, 1997

S.O. 1557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jarangdih Colliery of M/s. C. C. L. and their workmen, which was received by the Central Government on 20th May, 1997.

[No. L 20012/351/93-IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 254 of 1994

PARTIES :

Employers in relation to the management of Jarangdih Colliery of M/s. C.C. Ltd.

AND
Their Workmen.

PRESENT :

Shri Tarkeshwar Prasad, Presiding Officer.

APPEARANCES :

For the Workmen : Shri J. P. Singh, Advocate.

For the Workmen : Shri J. P. Singh, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 13th May, 1997

AWARD

By Order No. L-22012(351)/93-IR(Coal-I) dated the 31st October, 1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Jarangdih Colliery under Kathara Area of C.C. Ltd. P.O. Jarangdih Dist. Bokaro in dismissing Shri Bhagirath Modi from the services of the Company w.e.f. 27-2-1992 is justified ? If not, to what relief the workman is entitled ?"

2. The dispute has been settled by the management and the sponsoring union out of the Tribunal. A memorandum of settlement has been filed in this Tribunal. I have gone through the terms of settlement and I find them quite fair and reasonable. I allow the prayer and pass an award in terms of settlement. The memorandum of settlement shall form part of this award.

3. Let a copy of this award be sent to the Ministry as required under Sec. 15 of the I.D. Act.

TARKESHWAR PRASAD, Presiding Officer
BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.

1, DHANBAD

Reference No 254/94

Employers in relation to the Management of Jarangdih Colliery.

AND

Their workmen

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sweth :—

1. That the above dispute has been amicably settled between the parties on the following terms :—

TERMS OF SETTLEMENT

(a) That the concerned workman Sri Bhagirath Modi Ex-cat-I Mazdoor T/No. 4360 will be given fresh appointment as cat-I Mazdoor

in underground mines, Jarangdih Colliery
C.C.L.

(b) That in view of the above settlement there remains nothing to be adjudicated.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to pass the Award in terms of the settlement.

For the workman

1. (Bhabirath Modi)

Sd/-

2. (Jugal Kishore Singh)

Area President, (RCMS (CKTA))

For the Employer

1. (R.B.S. Sinha)

Dy. Personnel Manager.

Sd/-

2. (G.S. Prasad)

WITNESS

1. _____

2. _____

नई दिल्ली, 23 मई, 1997

का. आ. 1558.—ओर्डोरिंग विवाद प्रधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युत्तरण में, केन्द्रीय सरकार भारत कोकिंग कॉल लि., बोयला भवन, डाक बोयला नगर, धनबाद के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, प्रत्युत्तर में निविष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग प्रधिकरण नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-5-97 को प्राप्त हुआ था।

[सं. एस-24012/44/87-डी-4(बी)/पाई.आर. (सी-I)]

ब्रज मोहन, ईस्क प्रधिकारी

New Delhi, the 23rd May, 1997

S.O. 1558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Coking Coal Ltd., Koyla Bhawan, P.O. Koyla Nagar, Dhanbad and their workmen, which was received by the Central Government on 20th May, 1997.

[No. L 24012/44, 87-D-IV(B)/IR(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT :

Shri T. Prasad, Presiding Officer.

In the matter of an Industrial Dispute under Section

10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 275 OF 1987

PARTIES :

Employers in relation to the management of Bharat Coking Coal Ltd. Hqrs. Koyla Bhawan, P.O. Koyla Nagar, Dist. Dhanbad and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 6th May, 1997

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(44)/87-D.IV(B), dated the 21st September, 1987.

SCHEDULE

"Whether the action of the management of Bharat Coking Coal Ltd., Hd. Quarts. Koyla Bhawan, O. Koyalanagar, Distt. Dhanbad in terminating Shri Ashim Tikadar, from service is justified ? If not, to what relief the workman concerned is entitled ?"

2. The order of reference was received in this Tribunal on 31-10-1987 and the same was registered as Ref. No. 275 of 1987. Thereafter notices were served upon the parties. But both the parties neither turned up nor took any steps. Again notices were issued to them out inspite of the issuance of notices to them they neither turned up nor took any steps. It therefore leads me to an inference that presently there is no dispute existing between them and in the circumstances. I have no other alternative but to pass 'No dispute' Award in this reference.

T. PRASAD, Presiding Officer

नई दिल्ली, 2 जून, 1997

का. आ. 1559.—कर्मचारी राज्य बीमा प्रधिनियम 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा 16 मई, 1997 को उस तारीख के रूप में नियत करती है जिसको उक्त प्रधिनियम के अध्याय 4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाएं जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे अर्थात्:-

"जिला एवं तालुक निचुर में राजस्व ग्राम पालीस्सारी के अंतर्गत आने वाले क्षेत्र"।

[संख्या एस-38013/10/97 एस. एस. I]

जे.पी. शुक्ला, प्रबर सचिव

New Delhi, the 2nd June, 1997

S.O. 1559.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1997 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Section 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala namely :—

"The areas within the Revenue Village of Pallissery in taluk and District of Trichur."

[No. S-38013/10/97-SS.I]
J. P. SHUKLA, Under Secy.

नई दिल्ली, 5 मई, 1997

का. आ. 1560.—प्रौद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निश्चिट प्रौद्योगिक विवाद में प्रौद्योगिक अधिकरण, कोटा के वंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 2-5-97 को प्राप्त हुआ था।

[संभास एल-12012/152/91-प्राई (प्रार. शी-II)]
के. बी. उम्री, हैस्क प्रधिकारी

New Delhi, the 5th May, 1997

S.O. 1560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kota as shown as in the Annexure, in the industrial dispute between the employees in relation to the management of Kshetriya Gramin Bank and their workman, which was received by the Central Government on 2-5-1997.

[No. L-12012/152/91-IR(B-2)]
K. V. B. UNNI, Desk Officer

अनुबन्ध

न्यायाधीश, प्रौद्योगिक न्यायाधिकरण, कोटा/केन्द्रीय/राज.

निर्देश प्रकरण क्रमांक : ओ. न्या. (केन्द्रीय) - 11/91
दिनांक स्थापित : 17-7-91

प्रसंग : भारत सरकार, अम मंत्रालय नई दिल्ली के प्रादेश संघा एल 12012/152/91/प्राई. प्रार. (बी-2)
दिनांक 4 जून 1991

प्रौद्योगिक विवाद अधिनियम 1947

मध्य

राजेन्द्र कुमार शर्मा द्वारा सचिव ग्रामीण, बैंक प्रौद्योगिक यूनियन, यूनिट ऑफिस पितृ स्मृति, देवपुरा, बूंदी।

--प्रार्थी श्रमिक

एवं

अध्यक्ष, बूंदी चित्तोड़ ज्ञानीय ग्रामीण बैंक,
प्रधान कार्यालय खोजा गेट रोड, बूंदी।

--प्रतिपक्षी नियोजक

उपस्थित

श्री आर.के. चाचान, आर.एच.जे.एस.

प्रार्थी श्रमिक की ओर से प्रतिनिधि: श्री डी.आर.द्विदेवी
प्रतिपक्षी नियोजक की ओर से प्रतिनिधि: श्रो एम.सी. गुप्ता
अधिनियम दिनांक : 13-3-97

अधिनियम

भारत सरकार, अम मंत्रालय, नई दिल्ली द्वारा निम्न निर्देश प्रौद्योगिक विवाद अधिनियम, 1947 जिसे तदुपरात्त 'अधिनियम' से सम्बोधित किया जायेगा) की धारा 10(1)(घ) व सप्तित उपधारा (2 क) के अंतर्गत इस न्यायाधिकरण को अधिनियम्यार्थ सम्बोधित किया गया है :—

"Whether the action of Bundi-Chittorgarh Kshetriya Gramin Bank, Bundi, in terminating the services of Sh. Rajendra Kumar Sharma, part-time messenger, w.e.f. 10-8-86, is legal and justified ? If not, to what relief the concerned workman is entitled to and from which date ?"

2. निर्देश न्यायाधिकरण से प्राप्त होने पर दर्ज रजिस्टर किया गया व पक्षकार को सूचना जारी की गयी। प्रार्थी श्रमिक राजेन्द्र कुमार शर्मा के सम्बन्ध में प्रार्थी यूनियन की ओर से क्लेम स्टेटमेंट प्रस्तुत कर संक्षेप में तथा इस प्रकार अंकित किये गए हैं कि प्रार्थी को अध्यक्ष बूंदी चित्तोड़ ज्ञानीय ग्रामीण बैंक, प्रधान कार्यालय खोजा गेट, बूंदी (जिसे तदुपरात्त "प्रतिपक्षी" नियोजक से सम्बोधित किया जायेगा) द्वारा दिनांक 10-6-85 को प्रथम बार नियोजित किया तथा 14-9-85 सक श्रमिक से कार्य लिया गया। प्रतिपक्षी द्वारा सम्बोधित श्रमिक को 15-9-85 को काम पर नहीं लिया गया एवं सेवाएं समाप्त कर दी गयीं। तदुपरात्त प्रार्थी श्रमिक को 8-5-86 को पुनः नियोजित किया गया व 9-8-86 तक कार्य किया गया। प्रतिपक्षी ने 10-8-86 से काम पर नहीं लिया एवं उसकी सेवाएं समाप्त कर दी। इस प्रकार श्रमिक को प्रतिपक्षी द्वारा 15-9-85 तक 10-8-86 को सेवा से पूर्ण करना अधिनियम में वर्णित छंटनी है। श्रमिक को उक्त दोनों तिथियों को जो सेवा से पूर्ण किया गया उस समय प्रतिपक्षी को सेवाएं उससे कठिन श्रमिक नियोजित थे तथा बाद में भी वे प्रतिपक्षी की सेवाएं कार्यरत रहे व कई श्रमिक आज तक भी प्रतिपक्षी की सेवा में हैं। श्रमिक की सेवाएं

समाज करते समय जो श्रमिक से कनिष्ठ ये और जो आज भी सेवा में हैं उनके नाम पद स्थापन व नियुक्ति निये निम्न प्रकार हैः—

नाम	स्थान	नियुक्ति की तिथि
1. श्री भवरलाल मोणा	बाट का बराना	1-11-85
2. „ राधेशराम मुखार	मायजा	28 11-85
3. „ लेखराज पटेल	अजेता	7-11-86
4. „ रतन भिंह राठोर	सोनीयाना	18-6-89
5. „ शिव सिंह	गंभूरा	18-2-87
6. „ रामलक्ष्मण	नेगड़	11-4-86
7. „ बावलाल	रुड़ग्राना	29-7-87
8. „ रामलक्ष्मण	जजावर	22-8-87
9. „ गंगाधर शर्मा	चित्तोड़गढ़	6-8-89
10. „ कैलाशचन्द्र	धमाना	9-11-86

3. इस प्रकार श्रमिक को उनसे कनिष्ठ श्रमिकों के सेवा में रहते हुए छठनी किया जाना अधिनियम की धारा 25 जी के प्रावधानों के विपरीत है। इस तरह प्रार्थी श्रमिक को पुनः नियोजित नहीं करना अनुचित आचरण है। यह भी कहा गया कि प्रत्येक श्रमिक को जिसे छठनी किया गया नियोजक के पास रिक्त पद होने व नियोजन की आवश्यकता होने पर पुनः नियोजन का अवसर देना अधिनियम की धारा 25 एवं के प्रावधान के अनुसार अपेक्षित है। सम्बन्धित श्रमिक को छठनी किए जाने के बाद प्रतिपक्षी ने नये श्रमिकों को नियोजित किया परन्तु प्रार्थी को ऐसा अवसर नहीं दिया गया जोकि अधिनियम की धारा 25 एवं के प्रावधान के विपरीत है। अतः प्रार्थी श्रमिक को प्रतिपक्षा है यहां पुनः सेवा में लिया जाना सेवा की निरन्तरता बनाते हुए सभी बेतन लाभ प्रदान किये जाते हैं।

4. प्रतिपक्षी नियोजक की ओर से अपने जबाब में यह अकित किया गया है कि प्रार्थी से प्रतिपक्षी बैंक ने तत्कालीन आवश्यकतानुसार अंशकालीन दैनिक बेतन शोधी पूर्णसंया अस्थायी पद पर आकस्मिक श्रमिक के रूप में दिनांक 10/6/85 से 13/7/85 के मध्य 29 दिन 15/7/85 से 10/8/85 के मध्य 24 दिन तथा 12/8/85 से 14/9/85 तक के मध्य 27 दिन कार्य किया है तथा उसे मजदूरी का भुगतान किया गया है। दि 14/9/1985 के पश्चात प्रार्थी के डिग्री पर उपस्थित न होने पर आवश्यकतानुसार अन्य ध्यक्ति की सेवाये प्रतिपक्षी द्वारा प्रातः की गयी। इसी प्रकार प्रार्थी से तत्कालीन आवश्यकता अनुसार अंशकालीन दैनिक बेतन शोधी अस्थायी आकस्मिक श्रमिक के रूप में दि. 8/5/86 से 31/5/86 के मध्य 21 दिन, 1/6/86 से 30/6/86 के मध्य 24 दिन तथा 1/7/86 से 31/7/86 के मध्य 27 दिन व 1/8/86 से 9/8/86 के मध्य 8 दिन कार्य किया है तथा श्रमिक को प्रतिदिन 11/ रु. के दिवाये से भुगतान किया गया है। दि. 9/8/86 के

पश्चात् प्रार्थी द्वारा डिग्री पर उपस्थित नहीं होने पर आवश्यकतानुसार अन्य व्यक्तियों को सेवाएं प्रतिपक्षी बैंक द्वारा ली गयी। प्रार्थी श्रमिक ने 240 दिन निरतर कार्य नहीं किया इसलिए छठनी के प्रावधान लाग् नहीं होते अतः ब्लेम खारिज किया जाये।

5. प्रतिपक्षी के जबाब का प्रार्थी ने जबाबुलजबाब पेश किया है जिसमें यह अकित किया है कि श्रमिक से पूरे बैंक समय में काम लिया जाता था इस कारण यह अंशकालीन नहीं हो सकता। श्रमिक से जो कार्य लिया जाता था वह स्थायी प्रकृति का था जो आज भी हो रहा है इस कारण प्रार्थी अस्थायी एवं आकस्मिक श्रमिक नहीं था। श्रमिक ने 10-6-85 से 14-9-85 तक निरन्तर कार्य किया। दि. 15-7-85 व 11-8-85 को जो कार्य करना नहीं बताया गया है उन दिनों रविवारीय अवकाश था। श्रमिक को उसके बाद प्रतिपक्षी ने डिग्री पर नहीं लिया और नये श्रमिकों को नियोजित कर लिया। श्रमिक अंशकालीन श्रमिक नहीं था तथा 8/5/86 से 9/8/86 तक निरन्तर कार्य किया है। इसके बाद श्रमिक को डिग्री पर नहीं लिया गया व नये श्रमिकों को नियोजित कर निया। प्रतिपक्षी बैंक के प्रधान नायारिय में आम सिह नाम का श्रमिक को प्रार्थीबाद नियोजित किया गया था प्रार्थी से कनिष्ठ था परन्तु जब 9-8-86 को सेवा से हटाया गया तब भी ओमसिंह कार्यरत था तथा बाद में भी कार्यरत रहा जिसके कारण प्रार्थी को सेवा से हटाना शोधीगिर विवाद अधिनियम की धारा 25-जी के प्रावधानों के विपरीत है। फिर काफी समय बाद ओमसिंह को सेवा से हटाकर गोपाल सिंह को काम पर लगाया गया जिसे अब स्थायी किया जा चुका है। अतः प्रार्थीना की गयी है कि प्रार्थी के क्लेम के अनुसार अधिनियम पारित किया जाये।

6. प्रार्थी राजेन्द्र कुनार ने अपने ब्लेम की ताईद में साक्ष्य में अपना शपथ-पत्र प्रस्तुत किया है जिससे नियोजित प्रतिनिधि ने जिरह की है। प्रतिपक्षी नियोजक की ओर से अर्जुन रित्त राठोर का शपथ पत्र प्रस्तुत हुआ है जिससे श्रमिक प्रतिनिधि ने जिरह की है। बहस अंतिम सुनी गयी व पत्रावली का अवलोकन किया गया।

7. प्रार्थी श्रमिक की ओर से विद्वान प्रतिनिधि ने यह बहस की है कि प्रार्थी श्रमिक ने प्रतिपक्षी के यहां निरन्तर कार्य किया एवं प्रतिपक्षी ने जानबूझकर प्रार्थी को डिग्री पर नहीं लिया एवं सेवा से पृथक कर दिया। प्रार्थी को सेवा से पृथक करने के समय प्रतिपक्षी के यहां स्वीकृत रूप से प्रार्थी से कनिष्ठ श्रमिक नियोजित था। प्रतिपक्षी ने अपने जबाब में यह स्वीकार किया है कि प्रार्थी को हटाने के बाद प्रतिपक्षी ने नये श्रमिक नियोजित किये परन्तु उसके बावजूद प्रार्थी को स्वीकृत रूप से नियोजन में नहीं बुलाया गया। इस प्रकार प्रतिपक्षी ने अधिनियम की धारा 25-जी व एच का स्पष्ट उल्लंघन किया है। विद्वान प्रतिनिधि ने अपनी बहस की ताईद में "1992(1) डब्ल्यू एल सी

(राज) 464-ओरियलटल बैंक ग्राहक कांस्मर्श बनाम पीठा-
सीन अधिकारी केन्द्रीय सरकार औरोगिक न्यायाधिकरण
एवं 1996 (1) इन्डियन एल सी (राज) 418-राज
ट्रेड यूनियन केन्द्र, जयपुर बनाम में जे के सिन्थटिक्स लि.
कोटा” से पेश किया है। विद्वान प्रतिनिधि ने उक्त नजीरों
को प्रस्तुत करने हुए कहा है कि वर्तमान मामले में प्रथम
नजीर के तथ्य प्रार्थी के मामले के अनुरूप था जिसमें
माननीय राज उच्च न्यायालय ने धारा 25-एफ जी एच
पर निर्णय दते हुए यह मिलांत प्रतिपादित किया कि धारा
25-एफ, जी एवं एच स्वतंत्र रूप से श्रद्धिरों के हित के
लिए देखी जायेंगी एवं यह अभिमत प्रकट किया कि धारा
25-एफ प्रमाणित न हो तो भी धारा 25-जी व एच का
उल्लंघन होने पर अभिकों वो पुनः मेवा भें नियोजन के आदेश
दिये जाने चाहिए। प्रार्थी पक्ष की ओर से दूसरी नजीर
जो प्रस्तुत की गयी है उससे यह स्थिति मिलांत प्रतिपादित
किया गया है कि नियोजक के कब्जे में दो रस्तायें ज हो
वो नियोजक को आवश्यक रूप से न्यायालय में पेश करने
चाहिए। प्रत्याया नियोजक के विस्तृ दस्तावेज पेश नहीं करने
के अभाव में निष्कर्ष निकालना चाहिए।

8. प्रतिपक्षी की ओर से विद्वान् प्रतिनिधि ने उच्चन् बहस का जबाब देते हुए कहा है कि प्रार्थी ने जिग्ह श्रमिकों को प्रार्थी से कनिष्ठ होना बतलाया है उन्हे साक्ष्य में पेश नहीं किया गया एवं भियोजक ने प्रार्थी की अनुपस्थिति पर अन्य नये श्रमिक नियोजित नहीं किये। प्रार्थी ने जिन श्रमिकों को कनिष्ठ होना बतलाया है वे विभिन्न आन्ध्रों में पद स्थापित थे जिनसे प्रधान कार्यालय का सरोकार नहीं था, अतः प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

9. पक्षकारों की साक्ष्य का संक्षेप में विश्लेषण निम्न प्रकार मे है प्रार्थी राजेन्द्र कुमार शर्मा ने अपने शपथ-पत्र में यह कहा है कि मुझे प्रतिपक्षी ने दि 10-6-85 को नियोजित किया गया था। उसने 14-9-85 तक लगातार कार्य किया। दि 14-9-85 को प्रतिपक्षी द्वारा यह बताया गया था कि मेरी सेवाएं समाप्त कर दी गयी हैं अगले दिन ड्यूटी पर नहीं आवे। दि 15-9-85 को साप्ताहिक अवकाश था। मुझे 16-9-85 को नौकरी पर नहीं लिया गया। प्रतिपक्षी द्वारा दि. 8-5-86 को पुनः सेवा में नियोजित किया गया और 9-8-86 तक काम लिया गया और 9-8-86 को पुनः कहा गया कि मेरी सेवाएं समाप्त की जा रही हैं। दि 10-8-86 का साप्ताहिक अवकाश था व 11-8-86 से ड्यूटी पर नहीं लिया गया। प्रार्थी को 14-9-85 को सेवा से हटाया गया तब व जब 10-8-86 को सेवा से हटाया गया तब भी प्रार्थी से कनिष्ठ श्रमिक प्रतिपक्षी के यहां काम कर रहे थे तथा बाद में भी काम कर रहे हैं। प्रतिपक्षी ने प्रार्थी को सेवा से हटाये जाने में पहले आदे पहले पाय सिद्धांत की प्रवहेलना की। प्रार्थी से कनिष्ठ 10 श्रमिकों को प्रार्थी से हटाने के बाद भी सेवा में रखा। दि. 9-8-86 को प्रार्थी की सेवा से हटाया तब भी प्रार्थी से कनिष्ठ श्रमिक

ओम सिंह प्रतिपक्षी बैंक के प्रधान कार्यालय में पद स्थापित था तथा प्रार्थी के हटाने के बाद भी काम करता रहा। फिर ओम सिंह को हटाकर गोपाल भिंह को नियुक्त कर स्थायी कर दिया गया। प्रार्थी को मेशा से हटाने के बाद प्रतिपक्षी के अधिकारियों को प्रार्थी ने पत्र लिखे जो प्रैर्ड डब्ल्यू 9 लग्याक 17 प्रातिल रसीदों महित हैं, परन्तु उसके बाबजूद भी उसे नीकरी पर लटी लिया गया। प्रार्थी ने शपथ-पत्र की जिरह में भुझे भी यह कहा है कि 14-9-85 को ही काम पर ग्राम से गना कर दिया था इसलिए काम पर नहीं गया। दि. 9-8-80 के बाद तो कार्य पर नहीं लिया गया। मैंने लिखित में तिक्कातन का थो।

10. प्रतिपक्षी के गवाह अर्जुन सिंह राठोर ने शपथ-पत्र की जिरह में स्वीकार किया है कि प्रार्थी के कोंम के पैरा नं. 6 में वर्णित 10 वादिकारी ने दैक की उभिन्न शाखाओं में लाभ किया है परन्तु जो नियुक्ति दिए गये बतायी गयी है, उसके बारे में जानकारी नहीं है। इसके यह भी जानकारी नहीं है कि इनको नौकरी पर रखने के समय राजेन्द्र कुमार को दुश्मारा बलाया गया था नहीं।

दिनांक 15-9-85 को गोपाल सिंह को व 11-8-86 को सुरेन्द्र सिंह को हैड आफिस जे लगाया गया था तो तो जानकारी नहीं है, परन्तु इन दोनों ने हमारी बैंक में काम किया है और अभी भी बैंक में काम कर रहे हैं। श्रमिक का काम सफाई करने, ज्ञाह लगाने, पानी परन्तु, पानी पिलाने व डाक का वितरण करने का था। श्रमिक को नियुक्ति-पत्र नहीं दिया गया व न ही एग्रीमेंट पर हस्ताक्षर करवाये गए।

11. इस प्रकार उक्त साक्ष्य कि विश्लेषण से यह स्पष्ट है कि प्रतिपक्षी के गवाह अर्जन सिंह राठोर जा कि शाखा प्रबन्धक, ठीकरदा ब्रांच में पदस्थपित हैं, ने अपने जिरह में यह स्वीकार किया है कि प्रार्थी की मेंगा के बाद गोपाल सिंह व सुरेन्द्र सिंह को नियोजित किया गया था जो अभी भी बैंक में कार्यरत हैं व इसके द्वारा प्रार्थी ने अपने शपथ-पत्र व कलेम के पैरा नं. ६ में १० व्यक्तियों को प्रार्थी से कनिष्ठ होते हुए व प्रतिपक्षी के यहां सेवा में मौजूद होते हुए प्रार्थी को सेवा से निष्कासित किया जाना बतलाया है, इस पर प्रतिपक्षी के विद्वान प्रतिनिधि का यह तर्क है कि प्रधान कायलिय एवं शाखा में अलग-अलग थो, जबकि प्रतिपक्षी की ओर से प्रधान कायलिय के फ़िसी गवाह का साक्ष्य में पेश नहीं किया गया है बल्कि शाखा प्रबन्धक ठोकर को पेश किया गया है। इससे स्पष्ट है कि प्रतिपक्षी का प्रधान कायलिय एवं शाखायों पर कही यूनिट थी। प्रतिपक्षी द्वारा स्वीकृत रूप से प्रार्थी से कनिष्ठ श्रमिकों को प्रार्थी को सेवा से पुथक करते समय सेवा में बनाये रखा गया एवं प्रार्थी को सेवा से हटाने के बाव भी स्वीकृत रूप से गोपाल सिंह व सुरेन्द्र सिंह को सेवा में नियोजित किया गया जबकि प्रार्थी को

नियोजन का पुनः अवसर सही दिया गया। प्रार्थी ने प्रतिपक्षी को बाहर करने से विवेदन किया परन्तु प्रतिपक्षी ने उस पर कोई ध्यान नहीं दिया और कोई प्रभावी असर नहीं हुआ।

12. इस प्रकार उक्त शहदत में यह स्पष्ट है कि प्रतिपक्षी द्वारा अधिनियम की धारा 25-जी व पञ्चवा उल्लंघन किया गया है। प्रार्थी के विभास प्रतिनिधि ने जो प्रथम नजीर 1992(1) डब्ल्यू.एन.सी. (राज.) 463; को पेश किया है उसमें प्रतिपक्षीने सिद्धांत मौजूदा मामले में पूर्ण रूप से ताकू जाते हैं और मैं इसमें भली भांति समर्थित एवं पावन्द हैं। जहाँ तक प्रार्थी द्वारा प्रतिपक्षी के द्वारा विवरण विभिन्नों का पूर्ण विवरण दें के पश्चात शी प्रतिपक्षी ने उन श्रमिकों के खेवा सम्बन्धी दस्तावेज पेश नहीं किया जाता कि प्रतिपक्षी के कब्जे में थे। स्वीकृत रूप में प्रार्थी को कोई नियुक्ति-पत्र व सेवा का प्रतियोगी तक नहीं दिया गया, ऐसी सूख में प्रार्थी प्रतिनिधि द्वारा प्रस्तुत दूसरी नजीर 1996 डब्ल्यू.एस. भी. (राज.) 418 में प्रतिपक्षीने सिद्धांत में भी मैं भवी उकार समर्पित एवं पावन्द हैं। प्रतिपक्षी का यह दावित था कि प्रार्थी ने जिन कर्मचारियों को छोड़ने से कानून बतलाया है, उनके सेवा सम्बन्धी ममता अभिलेख प्रतिपक्षी पेश करता। अतः सम्बन्धित अधिकारी ये पेश नहीं करने पर भी प्रतिपक्षी के विलङ्घ जान बुझ कर अधिकारी प्रस्तुत नहीं करने का निष्कर्ष निकालना न्यायोचित है।

13. इस प्रकार उक्त सम्पूर्ण विवेचन के आधार पर मैं इस निष्कर्ष पर पहुंचा हूँ कि प्रतिपक्षी ने प्रार्थी को जो 10-8-88 से सेवा से पूर्यक किया है वह उचित एवं वैद्य नहीं है, फलस्वरूप प्रार्थी प्रतिपक्षी के यहाँ पुनः सेवा में नियुक्ति जाने का अधिकारी योग्यता नहीं है।

14. जहाँ तक प्रार्थी के पिछले वेतन का प्रश्न है, प्रार्थी से इस सम्बन्ध में कोई जिर्ह प्रतिपक्षी द्वारा नहीं की गयी और न प्रतिपक्षी के गवाह अर्जन सिंह राठोर ने ही प्रार्थी को सेवा से हटाने के बाद अन्यत्र कहीं लाभकारी नियोजन में होने की बात कहीं है, अतः प्रार्थी प्रतिपक्षी से पिछले सम्पूर्ण वेतन सेवा की नियन्त्रता को प्राप्त करने का भी अधिकारी उपयुक्त समझा जाता है।

15. उक्त सम्पूर्ण विवेचन के आधार पर भारत सरकार, अम मंत्रालय, नई दिल्ली द्वारा मन्त्रिपति निर्देश को इस प्रकार उत्तरित किया जाता है कि अध्यक्ष,

बृद्धी चित्तोङ्गड़ खेतीय ग्रामीण बैंक, बृद्धी द्वारा शासित राजेन्द्र कुमार गर्मी को दि. 10/8/86 से योग्य संघर्ष करना उचित एवं धैर्य नहीं है, पात्रस्वरूप प्रार्थी : पिछले सम्पूर्ण वेतन योग्य की नियन्त्रता नहीं पुनः सेवा में लिये जाने का अधिकारी धैर्यता किया जाता है।

इस अधिदिवर्ष को गमुचित सम्झार वा गम्भानुमार प्रकाशनार्थ दिजया जाए।

आर.ए. चौहान, न्यायाधीश

नई दिल्ली, 28 मई, 1997

का.आ. 1561:- केन्द्रीय सम्झार ने यह समाधान हो जाने पर कि दूल्हदिल्ली में ऐसा करता प्रतिपक्षी है कि भारतीय भाषा विगम सेवा का, जो अधिनियम विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रतिष्ठित 6 के अंतर्गत आती है, उक्त अधिनियम के प्रश्नोत्तरों के लिए लोक उपयोगी सेवा धौपित किया जाना चाहिए।

अतः श्रव. औद्योगिक विभाज अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपर्युक्त (VI) द्वारा प्रदत्त शक्तियों का प्रयोग करने हों, केन्द्रीय सम्झार, उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए छह माह की अवधि तक के लिए तत्काल लोक उपयोगी सेवा धौपित करती है।

[सं. प्रा-11017/5/91-आईआर.(नीति विधि)]

हरीं चन्द गुप्ता, अवर सचिव

New Delhi, the 28th May, 1997

S.O. 1561.—Whereas the Central Government is satisfied that the public interest requires that the services in the Food Corporation of India, which is covered by entry 6 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purpose of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act, for a period of six months.

[No. S-11017/5/91-JR (PL)]

H. C. GUPTA, Under Secy.

